

ESQUIRE DEPOSITION SERVICES

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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

- - - - - x  
ETHYPHARM S.A. FRANCE, :  
and ETHYPHARM S.A. SPAIN, :  
Plaintiffs, :  
Vs. : C.A. No. 04-13000-SLR  
BENTLEY PHARMACEUTICALS, :  
INC., :  
Defendant. :  
- - - - - x

Videotaped Deposition of PIERRE GERMAIN

Washington, D.C.

Tuesday, August 1, 2006

8:59 a.m.

Job No.: 175555

Pages 1 - 189

Reported by: TRISTAN-JOSEPH, RPR

ESQUIRE DEPOSITION SERVICES  
1-866-619-3925

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Page 6		Page 8	
1	Carpentier, P. Germain, dated	1	EP 002041.
2	18/05/2000, and its English	2	No. 14 A facsimile from James R. Murphy to 179
3	translation. Bates-stamped	3	Pierre Germain, October 6, 200,
4	EP 005915 to EP 005916.	4	9:02 a.m. Subject: Bentley
5	No. 8 A fax from Adolfo de Basilio to 107	5	Pharmaceuticals Drug Delivery
6	Mr. Pierre Germain, dated 18/05/00,	6	Technology. Bates-stamped
7	and its attached English	7	BEL001071.
8	translation. Bates-stamped	8	
9	EP 006124.	9	
10	No. 9 A letter from E. Igonet to Adolfo 119	10	
11	De Basilio, Philippe Boudal, Yves	11	
12	Liorzou, cc to Pierre Germain,	12	
13	Conclusions des travaux sur	13	
14	l'Espagne, and its attached English	14	
15	translation, dated August 22, 2000.	15	
16	Bates-stamped EP 007998.	16	
17	No. 10 A Confidential letter to 136	17	
18	Ph. Boudal, Y. Liorzou, P. Germain	18	
19	from A. De Basilio. Subject:	19	
20	Actions and observations on "C.R.	20	
21	de la Réunion Éthypharm Espagne du	21	
22	4-10-00," and its attached English	22	
Page 7		Page 9	
1	translation. Bates-stamped	08:54:40 1	PROCEEDINGS
2	EP 009103 to EP 009109.	2	THE VIDEOGRAPHER: On the record with
3	No. 11 An e-mail from Laurence Guggenbuhl 144	3	tape number one of the videotaped deposition of
4	Sent Thursday, November 9, 2000,	4	Pierre Germain taken by the Defendants in the
5	10:02 am to Ethypharm, cc to	08:59:09 5	matter of Ethypharm S.A., France and Ethypharm
6	Pascale Vernade, Pierre Germain,	6	S.A., Spain versus Bentley Pharmaceuticals,
7	Patrice Debrégeas. Subject	7	Incorporated, in the United States District Court
8	Omeprazole Reddy's, and its	8	for the District of Delaware, Case No. 04-1300 SLR.
9	attached English translation.	9	This deposition is being held at the law
10	Bates-stamped: EP 005980.	08:59:32 10	offices of Baach, Robinson & Lewis located at
11	No. 12 Note Interne, Reunion Belmac Le 160	11	1201 F Street, Northwest, in Washington, D.C., on
12	22/11/00, participants: G. Leduc,	12	August 1st, 2006, at approximately 8:59 a.m.
13	M. J. Murphy, P. Germain, and its	13	My name is T.J. O'Toole, representing
14	attached English translation	14	Esquire Deposition Services. I'm the Certified
15	(Internal Memorandum, Belmac	08:59:49 15	Legal Video Specialist.
16	meeting of 11/22/00. Bates-stamped	16	The court reporter is Tristan-Joseph,
17	EP 003283 to EP 003284.	17	also representing Esquire Deposition Services.
18	No. 13 A letter from Mr. Gérard Leduc to 171	18	Will counsel please introduce themselves
19	Mr. James Murphy, cc Roseline	19	and indicate which parties they represent.
20	Joannesse, on June 8, 2001, in	09:00:01 20	MR. MINGOLLA: Joseph Mingolla,
21	addition to a Draft of Agreement -	21	representing the Defendant Bentley Pharmaceuticals,
22	Belmac. Bates-stamped EP 002009 to	22	Inc.

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<p>09:00:06 1 MR. FINE: Jonathan Fine, representing 2 the Plaintiff Ethypharm. 3 THE VIDEOGRAPHER: Thank you. 4 Will the -- will the Interpreter please 09:00:12 5 identify herself for the record. 6 THE INTERPRETER: My name is Lily Olm. 7 THE VIDEOGRAPHER: Thank you. 8 Will the court reporter please swear in 9 the interpreter. 09:00:20 10 Whereupon, 11 LILY OLM 12 was sworn by the court reporter to interpret English 13 into French and French into English and interpreted 14 as follows: 09:00:28 15 THE VIDEOGRAPHER: Will the Interpreter 16 please assist the court reporter in swearing in the 17 witness. 18 Whereupon, 19 PIERRE GERMAIN 20 Was called as a witness and, having first been duly 21 sworn, was examined and testified as follows: 22 EXAMINATION BY COUNSEL FOR THE DEFENDANT</p>	<p>09:02:45 1 A. I understood very well. 2 Q. In order to have a clear record, it's 3 important that only one person speak at a time. 4 A. Very well. 09:03:01 5 Q. And I understand you would like to use 6 the services of the translator today? 7 A. Yes. 8 Q. In order to make her job easier, I will 9 attempt to break up any longer questions I have 09:03:15 10 into shorter sections. And similarly, if your 11 answer is a lengthy one, try to break it up into 12 pieces so that the translator may translate. 13 A. Very well. 14 Q. If at any point today you need to take a 09:03:41 15 break, please let me know and I will try to 16 accommodate your request. 17 A. Thank you. 18 Q. And the lawyers have agreed that during 19 any break today you will please not discuss the 09:03:59 20 substance of your testimony. Okay? 21 A. Okay. 22 Q. Mr. Germain, are you currently employed?</p>
Page 11	Page 13
<p>09:01:00 1 BY MR. MINGOLLA: 2 Q. Good morning, Mr. Germain. 3 Will you please state your full name for 4 the record. 09:01:07 5 A. My name is -- my last name is Germain, 6 G-E-R-M-A-I-N. My first name Pierre, P-I-E-R-R-E. 7 Q. And could you please give your 8 residential address. 9 A. I live in Paris. The address is 09:01:50 10 85 Avenue du General Leclerc, 1470 Smar in Paris, 11 France. 12 Q. Have you ever been deposed before? 13 A. (In English) No. 14 No. 09:02:08 15 Q. Let me give you just some guidelines for 16 today's deposition. 17 I will be asking you a series of 18 questions. And if at any time you don't understand 19 any of the questions, please let me know and I will 09:02:26 20 try to clarify the question. 21 Please provide verbal answers. The 22 court reporter cannot record nods of the head.</p>	<p>09:04:16 1 2 A. (In English) No. Yes, I work but I'm 3 not employed. 4 (Through the Interpreter) Yes, I work 09:04:28 5 but I do not obtain wages from an employer. 6 Q. What kind of work do you do? 7 A. Consultant. 8 Q. And how long have you been doing 9 consulting work? 09:04:50 10 A. I work in the capacity of a consultant 11 since four years. 12 Q. And for whom do you consult? 13 A. I am working for the pharmaceutical 14 industry, for the industry of elevators, elevator 09:05:20 15 industry, for banks, for hotels, and for car 16 manufacturing companies. 17 Q. Are -- are -- are you finished? 18 A. Yes. 19 Q. Do you do any consulting work for 09:05:41 20 Ethypharm? 21 A. You mean right now? 22 Q. Yes.</p>

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<p>09:05:50 1 Have you --</p> <p>2 A. No.</p> <p>3 Q. Have you done any consulting work for</p> <p>4 Ethypharm at any point during the last four years?</p> <p>09:06:05 5 A. Yes.</p> <p>6 Q. And when was the last time you provided</p> <p>7 consulting services to Ethypharm?</p> <p>8 A. Four months ago. I stopped four months</p> <p>9 ago. That was my last assignment.</p> <p>09:06:32 10 Q. How many assignments for Ethypharm have</p> <p>11 you done in the last four years?</p> <p>12 A. Two.</p> <p>13 Q. And how long -- when was the first</p> <p>14 consulting project for Ethypharm?</p> <p>09:06:58 15 A. A year ago, a little -- a little less</p> <p>16 than a year ago.</p> <p>17 Q. And how long did that project last?</p> <p>18 A. From memory, four months approximately.</p> <p>19 Q. And can you please describe what</p> <p>09:07:17 20 consulting services you provided to Ethypharm for</p> <p>21 that first project.</p> <p>22 MR. FINE: Objection to the extent he's</p>	<p>09:09:17 1 year ago. And I don't really understand the</p> <p>2 question.</p> <p>3 Q. How much money did you receive from</p> <p>4 Ethypharm in return for your consulting services on</p> <p>09:09:33 5 that first project?</p> <p>6 A. Around 80,000 Euro, something like that,</p> <p>7 I believe.</p> <p>8 Q. And the second consulting project that</p> <p>9 you did for Ethypharm?</p> <p>09:09:52 10 MR. FINE: Objection. Vague.</p> <p>11 BY MR. MINGOLLA:</p> <p>12 Q. When did that project begin?</p> <p>13 A. February of this year.</p> <p>14 Q. And how long did that project last?</p> <p>09:10:15 15 A. One and a half months, two months.</p> <p>16 Q. And did that project require you to</p> <p>17 speak with any of Ethypharm's attorneys?</p> <p>18 A. No.</p> <p>19 Q. Could you please describe what that</p> <p>09:10:32 20 consulting project required you to do?</p> <p>21 MR. FINE: Objection to the extent that</p> <p>22 he understood that he might have been working for</p>
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<p>09:07:30 1 not discussing matters that are privileged.</p> <p>2 THE INTERPRETER: Do you want to have --</p> <p>3 sorry, do you want to have the --</p> <p>4 MR. FINE: (Shook head negatively.)</p> <p>09:07:44 5 THE INTERPRETER: Okay.</p> <p>6 BY MR. FINE:</p> <p>7 Q. Did -- did -- let me ask this question.</p> <p>8 Did any of -- did any of the -- that</p> <p>9 first project of consulting involve working with</p> <p>09:07:49 10 attorneys for Ethypharm?</p> <p>11 A. No.</p> <p>12 Q. Please describe what that project</p> <p>13 entailed.</p> <p>14 A. This work, have to do this organization,</p> <p>09:08:26 15 industrial organization support in order to</p> <p>16 increase the yield.</p> <p>17 Q. The yield of what?</p> <p>18 A. Productivity of work.</p> <p>19 Q. And how much money did you receive for</p> <p>09:08:47 20 that first consulting project?</p> <p>21 Your best estimate. Your best estimate.</p> <p>22 A. I don't -- I don't remember. It's a</p>	<p>09:10:44 1 attorneys. That might be privileged even if he</p> <p>2 didn't communicate with them directly.</p> <p>3 BY MR. MINGOLLA:</p> <p>4 Q. You may answer.</p> <p>09:11:06 5 A. Could you repeat the question?</p> <p>6 Q. Would you please read it back.</p> <p>7 (Whereupon, the court reporter read back</p> <p>8 the pending question.)</p> <p>9 A. Required me to do?</p> <p>09:11:18 10 Q. Yes.</p> <p>11 A. This project required from my part to do</p> <p>12 what I was asked to do.</p> <p>13 Q. And what were you asked to do?</p> <p>14 A. Strategical reflections, strategical</p> <p>09:11:41 15 plan.</p> <p>16 Q. And how much money did you receive for</p> <p>17 that consulting project?</p> <p>18 A. Between 40 and 50,000 Euro, I believe.</p> <p>19 Q. Aside from the consulting projects</p> <p>09:12:05 20 you've just described, have you done any other</p> <p>21 consulting work for Ethypharm or any of its</p> <p>22 subsidiaries in during the last four years?</p>

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09:12:25	1 A. No.	09:15:18	1 you?
	2 Q. Mr. Germain, do you speak English?		2 A. Only from name, from hearing his name.
	3 A. A little.		3 Q. And how did you hear his name before?
	4 Q. Do you -- I understand.		4 A. If you work in the pharmaceutical
09:12:36	5 Do you -- do you write English?	09:15:37	5 industry, there are people who are known.
	6 A. A little less well and what I -- then		6 Q. And Mr. Leduc was one of those people?
	7 how I speak it.		7 A. Yes.
	8 Q. Can you read English?		8 Q. So the first time you spoke to Mr. Leduc
	9 A. A little less well than I'm writing it.		9 was when he called you?
09:12:56	10 Q. Do you speak Spanish?	09:15:56	10 MR. FINE: Objection. Mischaracterizes
	11 A. Very, very badly.		11 testimony.
	12 Q. Do you write in Spanish?		12 BY MR. MINGOLLA:
	13 A. No.		13 Q. You can answer.
	14 Q. And can you read Spanish?		14 A. Well, I believe so. I do not recall
09:13:09	15 A. No.	09:16:08	15 having talked to him before.
	16 Q. Mr. Germain, are you being compensated		16 Q. What -- what did Mr. Leduc say during
	17 for testifying today?		17 this phone call?
	18 A. No.		18 A. That he heard of me, that he wanted to
	19 Q. Prior to beginning -- strike that.		19 meet with me, that he had a suggestion, that he had
09:13:28	20 Prior to being a consultant were you	09:16:30	20 something to propose to me.
	21 employed?		21 Q. And what did you say?
	22 A. Yes.		22 A. I accepted the meeting.
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09:13:35	1 Q. And for whom were you employed?	09:16:38	1 Q. And did you eventually meet with
	2 A. All.		2 Mr. Leduc?
	3 Q. What did you do immediately before you		3 A. Yes.
	4 became a consultant?		4 Q. And how long was that meeting?
09:13:56	5 A. I was the general director of Ethypharm.	09:16:50	5 A. I don't know.
	6 Q. And is that Ethypharm France?		6 Q. Can you tell me what happened during
	7 A. Group.		7 that meeting?
	8 Q. And does Ethypharm Group include		8 A. He offered me the job.
	9 Ethypharm France and all of its subsidiaries?		9 Q. Did you ask any questions of Mr. Leduc?
09:14:22	10 A. Yes.	09:17:06	10 A. Of course.
	11 Q. When did you begin as general director		11 Q. What questions did you ask him?
	12 of the Ethypharm Group?		12 A. I don't know. Well, the traditional
	13 A. I don't recall. 2000.		13 questions which someone asks if someone is offered
	14 Q. And when you started working at		14 a job for an industry where you don't know that
09:14:46	15 Ethypharm Group were you the general director?	09:17:36	15 much about in that capacity.
	16 A. Yes.		16 Q. Did you not know -- strike that.
	17 Q. How did you learn that a position at the		17 What did you know about Ethypharm prior
	18 Ethypharm Group was available?		18 to this meeting with Mr. Leduc?
	19 A. I was called.		19 A. I knew of the company by name. I knew
09:15:08	20 Q. By whom?	09:18:03	20 that this company exists in the pharmaceutical
	21 A. Gérard Leduc.		21 world, but I did not know anymore.
	22 Q. Did you know Mr. Leduc before he called		22 Q. Did Mr. Leduc describe what your duties

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09:18:12	1 and responsibilities would be as the general	09:22:23	1 Ethypharm Group; is that correct?
	2 director of the Ethypharm Group at this meeting?		2 A. Yes.
	3 A. I don't think that he gave those		3 Q. And how long did you stay in that
	4 outlines during the first meeting. I believe that		4 position?
09:18:39	5 happened at the second meeting, I think, later.	09:22:38	5 A. One and a half years.
	6 Q. How many meetings with Mr. Leduc did you		6 Q. Could you please describe your duties
	7 have prior to actually becoming the general		7 and responsibilities as the director general of the
	8 director of the Ethypharm Group?		8 Ethypharm Group.
	9 A. I don't know. Two or three, maybe four.		9 A. I was the person in charge of it to
09:19:02	10 Q. Did you have a written employment	09:23:14	10 deploy the -- the strategy of the group, to enact
	11 agreement?		11 the strategy of the group. So I managed all the
	12 A. Yes.		12 operational functions of this group. All that
	13 Q. How long is that document?		13 means finance, industry, R and D, quality,
	14 How many pages?		14 communication, and human resources, and the
09:19:27	15 A. Like all the documents, three or four,	09:24:21	15 commercial aspect.
	16 maybe, pages.		16 On the other hand, I had no
	17 Q. Did the document describe your duties		17 responsibility with regards to the legal aspects to
	18 and responsibilities?		18 contract writing to patent protection within that
	19 A. It's a formal document, a document of a		19 group. I was in charge of the legal aspects with
09:19:53	20 job contract. So -- so yes, describes the	09:24:56	20 regards to the company level, but I had nothing to
	21 responsibilities.		21 do with the legal aspects with contracts or
	22 Q. Aside from Mr. Leduc, did you speak with		22 intellectual property protection, patents.
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09:20:06	1 anyone else at Ethypharm prior to accepting an	09:25:18	1 Q. Who, if anyone, at Ethypharm did have
	2 offer of employment?		2 responsibility for contracts or intellectual
	3 A. Yes, of course.		3 property protection?
	4 Q. With whom did you speak?		4 A. This was a function shared among the
09:20:24	5 A. With Patrice Debrégeas. With Patrice	09:25:47	5 shareholders but the main person was Gérard Leduc.
	6 Debrégeas in a formal way; and in an informal way,		6 Q. Anyone else whose name you recall?
	7 with two people, Eric Igonet, who was the financial		7 A. And then there were the -- the teams.
	8 director; and, Philippe Boudal, who at the time was		8 There were teams that were on contract with
	9 the industrial director or manager of the group.		9 Mrs. Joannesse and three or four people, but names
09:21:08	10 Q. Do you know what position Mr. Debrégeas	09:26:16	10 escape me.
	11 had when you spoke with him?		11 Q. A moment ago you said that one of your
	12 What role did Mr. Debrégeas have at		12 duties and responsibilities was to enact the
	13 Ethypharm when you spoke with him, what title?		13 strategy of the group; is that correct?
	14 A. He was the president director general,		14 A. Yes.
09:21:49	15 the CEU.	09:26:38	15 Q. Did your duties and responsibilities
	16 Q. And what title did Mr. Leduc have when		16 also include developing or creating the strategies
	17 you interviewed with him in -- in or around 2000?		17 for the group?
	18 A. I believe he was director general.		18 A. Yes, but under the constant surveillance
	19 Q. Where was your office located?		19 or control of the shareholders.
09:22:11	20 A. In Saint Cloud.	09:27:06	20 Q. How many shareholders did the Ethypharm
	21 Q. At some point you were, in fact, offered		21 Group have?
	22 the position to be director general of the		22 Do you know?

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<p>09:27:21 1 A. At the time there were two shareholders, 2 so 50/50. It was Gérard Leduc and Patrice 3 Debrégeas. 4 Q. Did you report directly to anyone while 09:27:39 5 you were the director general of the Ethypharm 6 Group? 7 A. I responded to the two of them. I 8 reported to the two of them. 9 Q. And those are Messrs. Leduc and 09:27:59 10 Debrégeas? 11 A. Absolutely. 12 Q. And who reported directly to you? 13 A. I was -- I mean, the members of the 14 board of directors reported to me. 09:28:28 15 MR. FINE: Objection. 16 A. By that -- 17 MR. FINE: Foundation. 18 A. -- I mean the financial director, the 19 industrial director, the director for 09:28:39 20 communication, the pharmacists in charge, the 21 director for human resources. And then one or two 22 others. I don't remember. I forgot commercial. I</p>	<p>09:30:54 1 Ethypharm? 2 A. No. 3 Q. Did you ever learn the reasons for his 4 departure from Ethypharm? 09:31:07 5 A. Rumors, yes, sir. 6 Q. And what did you -- 7 A. And I do not care and listen to hearsay. 8 Q. What rumors did you hear about the 9 reasons for his departure? 09:31:30 10 A. I don't know the regular, the normal 11 usually. The same as when with anybody who leaves 12 a job, he didn't work well, he didn't fulfill his 13 job tasks, he worked too much, he worked not 14 enough, you know, the regular thing. He was too 09:31:53 15 big, too small, he was always something too much or 16 not enough, like everybody else when somebody 17 leaves. 18 Q. During any of the meetings that you had 19 with Mr. Leduc prior to joining Ethypharm, did you 09:32:15 20 ask about why Mr. Dubois was leaving? 21 A. Yes, I must have asked. But I do not 22 recall because it's not something which is of</p>
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<p>09:29:05 1 don't remember. I knew that there were one or two 2 directors missing, but I don't recall their names. 3 Q. Did your duties and responsibilities as 4 the director general of the Ethypharm Group -- you 09:29:21 5 might want to start with that -- include any 6 responsibilities with any subsidiaries of 7 Ethypharm? 8 A. Yes. 9 Q. And what were those duties and 09:29:45 10 responsibilities? 11 A. Management and reporting, budgets, 12 distribution, control. 13 Q. Do you know who, if anyone, preceded you 14 as the director general at Ethypharm? 09:30:28 15 A. Yes, I believe that was Mr. Dubois, but 16 I don't know whether he was working with the same 17 parameters. I don't know. 18 Q. Did Mr. Dubois remain at Ethypharm after 19 you arrived at Ethypharm? 09:30:45 20 A. No. 21 Q. Did you ever discuss with anyone at 22 Ethypharm the reasons for his departure from</p>	<p>09:32:48 1 importance to me. 2 Q. Does -- do you know whether Ethypharm 3 had a board of directors while you were employed at 4 Ethypharm? 09:33:04 5 A. Yes, there was a board of directors. 6 Q. Were you a member of the board of 7 directors of Ethypharm? 8 THE INTERPRETER: Okay. Interpreter's 9 note. 09:33:21 10 Since in every organization there is a 11 difference between how you -- the determination. I 12 mean, like the word "bank" is always the -- the 13 board of administrators. 14 So I just want to make sure that I'm not 09:33:35 15 mistranslating something. 16 MR. FINE: Perhaps, you could clarify 17 the question. 18 MR. MINGOLLA: Let's go off the record 19 for one second. 09:33:44 20 MR. FINE: Okay. 21 THE WITNESS: Because often, there's 22 other directors, you know --</p>

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<p>09:33:45 1 THE VIDEOGRAPHER: Just a moment.  2 The time is 9:33:21.  3 Off the record.  4 (Discussion held off the record.)  09:35:22 5 THE VIDEOGRAPHER: On the record.  6 The time is 9:34:55.  7 BY MR. MINGOLLA:  8 Q. Mr. Germain, is there -- while you were  9 employed at Ethypharm, was there a group of  09:35:31 10 individuals that oversaw what management did at  11 Ethypharm?  12 A. No, I don't know what this means.  13 Q. Have you ever heard of the phrase "board  14 of directors"?  09:36:08 15 A. Yes.  16 Q. And would you please describe what  17 you --  18 MR. FINE: Objection. Translation.  19 BY MR. MINGOLLA:  09:36:12 20 Q. -- understand that term to mean?  21 A. If I understand this well, in an  22 enterprise, you have two things. You have the</p>	<p>09:38:53 1 A. And that's it.  2 Q. And with respect to the second group you  3 described, the persons who represent the capital,  4 who were those persons while you were employed at  09:39:10 5 Ethypharm?  6 A. Gérard Leduc, Patrice Debrégeas, and two  7 or three other people who were administrators, but  8 I do not remember their names.  9 Q. Prior to being employed at Ethypharm, by  09:39:39 10 whom were you employed?  11 A. For Santa Fe Advantis.  12 Q. And how long were you employed at Santa  13 Fe Advantis?  14 A. Three years.  09:39:58 15 Q. And what was your position or positions  16 at Santa Fe Advantis during that period?  17 A. General direction of Santa Fe, France.  18 Q. And prior to being employed at Santa Fe,  19 by whom were you employed?  09:40:26 20 A. Cap Gemini.  21 Q. Now when you arrived at Ethypharm as the  22 director general, did the company have a subsidiary</p>
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<p>09:36:34 1 management committees with the employees, with the  2 direction -- the directors, then you have assets,  3 you have capital, you have the person who  4 represents the capital or the assets.  09:37:09 5 And then, at that level, there is a  6 committee that represents capital or assets. And  7 this is what I understand by the board of  8 directors.  9 And in order to give you an answer to  09:37:27 10 your question, I was a member of the first one, and  11 I was not a member of the second one.  12 Q. Who were the members of the management  13 committee that you described while you were  14 employed at Ethypharm?  09:37:53 15 Yes.  16 A. The first one.  17 Q. Do you remember the individuals?  18 A. Philippe Boudal, Eric Igonet, Yves  19 Liorzou, Bruno Delie, Avi Pulan, Yentla Galligos  09:38:30 20 (phonetic), Frederic Fenal (phonetic), and in  21 research and development, Pascal Oury.  22 Q. And --</p>	<p>09:40:39 1 in Spain?  2 A. Yes.  3 Q. And what was the name of that  4 subsidiary?  09:40:56 5 A. Ethypharm Spain.  6 Q. So if during the course of today's  7 deposition I refer to Ethypharm Spain, you'll know  8 the entity to which I'm referring?  9 A. Yes.  09:41:13 10 Q. Did Ethypharm Spain have any offices in  11 Spain?  12 A. Yes.  13 Q. Where?  14 A. In Madrid.  09:41:26 15 Q. Anywhere else?  16 A. No.  17 (In English) No.  18 Q. Do you have an understanding of the  19 nature of the business of Ethypharm Spain when you  09:41:37 20 arrived at Ethypharm?  21 A. Yes.  22 Q. And what was that business?</p>

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<p>09:42:00 1 A. The business of Ethypharm Spain was, in 2 my opinion, the same as what Ethypharm did in the 3 other countries, Germany, Italy, Great Britain, and 4 so on, with one exception. It was that Ethypharm 09:42:33 5 was physically located in the country, the same way 6 as in Brazil, in Japan, in Canada, in China, India, 7 and that's it. Maybe I forget one or two. I don't 8 know. And Swiss -- and Switzerland. And that's 9 all, I believe.</p> <p>09:43:12 10 Q. And what precisely is that business? 11 MR. FINE: Objection. 12 Do you mean now or at the time that he 13 was employed? 14 BY MR. MINGOLLA:</p> <p>09:43:25 15 Q. At the time of your employment at 16 Ethypharm. 17 A. Yes. I was to sell a product of -- I 18 mean, medication, delivery of medication. And 19 these drugs were intended to improve the galanic. 09:43:56 20 These products were developed and manufactured 21 on -- on different sides of Ethypharm group. 22 Q. How many subsidiaries did the Ethypharm</p>	<p>09:45:57 1 Ethypharm Spain had? 2 A. Between five and ten. 3 Q. During the period that you were employed 4 at Ethypharm, did you have any communications with 09:46:19 5 anyone at Ethypharm Spain? 6 A. Absolutely, yes. 7 Q. And with whom? 8 A. Adolfo de Basilio. 9 Q. Anyone else? 09:46:47 10 A. Yes, maybe. Maybe. I don't know. 11 Q. Mr. -- Mr. de Basilio was your principal 12 contact at Ethypharm Spain? 13 A. Yes. 14 Q. And do you know what title or position 09:47:08 15 Mr. de Basilio had within Ethypharm Spain? 16 A. He was the person in charge of the 17 Spanish structure, maybe general director, but I do 18 not recall his exact title. 19 Q. Do you know whether Mr. de Basilio had 09:47:44 20 the power to hire and fire employees at Ethypharm 21 Spain? 22 A. From memory, for the procedures, in the</p>
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<p>09:44:17 1 Group have when you were employed at Ethypharm? 2 A. In total? 3 Q. Yes. 4 A. (In English) Fifteen maybe. 09:44:42 5 (Through the Interpreter) Fifteen with 6 emotion. 7 Q. And did each of those subsidiaries 8 report to you as the director general of the 9 Ethypharm group? 09:44:54 10 MR. FINE: Objection. Mischaracterizes 11 testimony. 12 THE WITNESS: Generally, yes. 13 BY MR. MINGOLLA: 14 Q. Did you ever have a title or position in 09:45:16 15 Ethypharm Spain? 16 A. No. 17 Q. When you arrived at Ethypharm, do you 18 know how many employees Ethypharm Spain had? 19 A. Between five or ten, I believe, from my 09:45:49 20 memory. 21 Q. And when you left Ethypharm's 22 employment, do you know how many employees</p>	<p>09:48:15 1 framework of the proceedings, he had power within a 2 defined framework to hire and fire people. In the 3 framework of hiring people, recruiting people, 4 there is a budgetary framework who is in that 09:48:51 5 framework. And with regards to firing people, the 6 group needed to be informed. That's it. 7 Q. Did you have -- while you were employed 8 at Ethypharm, did you have an understanding of any 9 other powers that Mr. de Basilio had in Ethypharm 09:49:16 10 Spain? 11 A. As far as I knew, he had the traditional 12 functions of a director of a -- of a -- 13 THE INTERPRETER: Sorry, the name 14 affilier escapes me. 09:50:02 15 THE WITNESS: (In English) Affiliate. 16 THE INTERPRETER: Yeah, an affiliate. 17 BY MR. MINGOLLA: 18 Q. Could you please explain to me what you 19 mean by the traditional functions of an affiliate? 09:50:27 20 A. By that, I mean, to operate the company 21 in a normal fashion, to contract on a commercial 22 basis, and to make sure that this company obeys to</p>

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<p>09:50:59 1 the local laws. This is what I mean when I'm 2 talking about the traditional functions of a 3 director of an affiliate. 4 Q. How frequently did you communicate with 09:51:14 5 Mr. de Basilio while you were employed at 6 Ethypharm? 7 A. Minimum of once a month and then more 8 frequently depending on the content of the subjects 9 to be dealt with of the -- of the topics. 09:51:54 10 Q. How did you communicate with 11 Mr. de Basilio? 12 Was it by telephone? In person? Some 13 other way? 14 MR. FINE: Objection. Compound. 09:52:16 15 THE WITNESS: I went several times to 16 Spain. The same way I went to the other 17 affiliates, Mr. de Basilio came to Paris for 18 meetings several times. And other than that, we 19 were in contact over the phone. And then even 09:52:47 20 sometimes things to the magical technological 21 information system we have, by e-mail or other 22 technique, but we never communicated by tam-tam.</p>	<p>09:55:17 1 Laboratorios Belmac while you were employed at 2 Ethypharm? 3 MR. FINE: Objection. Vague. 4 THE INTERPRETER: Any specific? 09:55:31 5 MR. MINGOLLA: Communications. 6 MR. FINE: Objection. Translation. 7 THE WITNESS: No. 8 BY MR. MINGOLLA: 9 Q. Did you ever communicate with 09:55:50 10 Mr. de Basilio about a company called Bentley 11 Pharmaceuticals, Inc.? 12 A. No. Well, when I say "no," I don't know 13 but I don't think so. 14 Q. Have you ever heard of a company called 09:56:24 15 Bentley Pharmaceuticals, Inc.? 16 A. Yes, I heard talking of that. I knew. 17 Q. And if I refer to that company as 18 Bentley, you will understand what I'm referring to 19 MR. FINE: Objection. 09:56:42 20 The witness can't know what you're 21 referring to unless you're clear. 22</p>
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<p>09:53:16 1 BY MR. MINGOLLA: 2 Q. What subject or subjects did you 3 communicate with Mr. de Basilio about most 4 frequently while you were employed at Ethypharm? 09:53:34 5 A. Organizational and commercial subjects, 6 development, and results. 7 Q. Did you ever communicate with 8 Mr. de Basilio about a company called Laboratorios 9 Belmac? 09:54:04 10 Laboratorios Belmac. 11 A. Yes, I did but not many. 12 Q. During the period that you were the 13 general director of the Ethypharm group, how many 14 times would you estimate you visited Spain? 09:54:44 15 A. You mean Spain or Mr. de Basilio? 16 Q. Let's start with Mr. de Basilio. 17 A. Maybe four times, between three and 18 five. 19 Q. And how many times did you visit Spain? 09:55:04 20 A. Between six and eight. 21 Q. Do you recall any specific 22 communications you had with Mr. de Basilio about</p>	<p>09:56:48 1 BY MR. MINGOLLA: 2 Q. You can answer. 3 A. Yes. 4 Q. Thank you. 09:56:51 5 While you were employed at the Ethypharm 6 Group were you aware of a relationship between 7 Bentley Pharmaceuticals, Inc. and Laboratorios 8 Belmac? 9 A. Yes. 09:57:15 10 Q. And -- and what was that relationship? 11 A. From memory, Belmac was an affiliate of 12 Bentley. 13 Q. And while you were employed at 14 Ethypharm, did you have an understanding about the 09:57:40 15 nature of the business of Laboratorios Belmac? 16 A. Vaguely. 17 Q. And what is that? 18 What was that understanding? 19 A. That they manufactured products. I do 09:58:17 20 not know exactly which products. But I know that 21 there was a relation between Ethypharm and Belmac 22 concerning the manufacturing of one product,</p>

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<p>09:58:37 1 Omeprazole.  2 Q. When you say that you were aware of a  3 relationship between Ethypharm and Belmac, do you  4 mean Ethypharm Spain and Belmac?  09:59:03 5 A. I do not understand.  6 Q. You just mentioned a relationship  7 between Ethypharm and Belmac concerning the  8 manufacturer of Omeprazole.  9 Do you remember that?  09:59:18 10 A. Yes.  11 Q. And was that relationship between Belmac  12 and Ethypharm Spain or Belmac and Ethypharm France?  13 MR. FINE: Objection. Compound and  14 vague.  09:59:39 15 BY MR. MINGOLLA:  16 Q. You can answer.  17 A. Well, in fact, Ethypharm Spain and Group  18 Ethypharm was the same thing, the same way as  19 Belmac and Bentleys (sic) were the same thing.  10:00:12 20 Q. Yeah, a few moments ago you mentioned  21 that Ethypharm had a subsidiary in Brazil; is that  22 right?</p>	<p>10:02:02 1 A. No.  2 Q. And what title or position did  3 Mr. Murphy have at -- at Laboratorios Belmac?  4 A. From memory, he was the director, maybe  10:02:25 5 he was president or director, the leader. He was  6 the boss.  7 Q. Did you ever hear of an individual  8 called Adolfo Herrera?  9 A. Yes.  10:02:48 10 Q. Did you ever have any communications  11 with Mr. Herrera while you were employed at  12 Ethypharm?  13 A. I crossed him but I never had any direct  14 professional relationship with him.  10:03:14 15 Q. Did you -- while you were employed at  16 Ethypharm, did you know whether Mr. Murphy had any  17 position or title at Bentley Pharmaceuticals, Inc.?  18 A. I don't know.  19 Q. Have you ever heard that Mr. Murphy is  10:03:47 20 the chairman and chief executive officer of Bentley  21 Pharmaceuticals, Inc.?  22 A. Yes, I believe so. That's what I told</p>
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<p>10:00:25 1 A. Yes, I said that.  2 Q. And as general director of the Ethypharm  3 Group, did you believe that there was a  4 relationship between Laboratorios Belmac and  10:00:34 5 Ethypharm Brazil?  6 Laboratorios Belmac and Ethypharm  7 Brazil.  8 MR. FINE: Objection. Argumentative.  9 THE WITNESS: No.  10:01:06 10 There were relationships with other  11 Ethypharm groups, Ethypharm Brazil, but between  12 Belmac and Ethypharm Brazil, that I don't see very  13 well. In fact, I do not understand this question  14 very well.  10:01:28 15 BY MR. MINGOLLA:  16 Q. Okay. While you were the director  17 general of Ethypharm Group, did you have any  18 interactions with anyone at Laboratorios Belmac?  19 A. Yes.  10:01:53 20 Q. With whom?  21 A. With Mr. Murphy.  22 Q. Anyone else?</p>	<p>10:04:07 1 you before.  2 Q. Okay. So let me ask this question again  3 then.  4 Can you please tell me what position you  10:04:17 5 know Mr. Murphy had at Bentley Pharmaceuticals Inc  6 while you were employed at Ethypharm.  7 A. Similar response. For me, he was the  8 boss. The main responsible person of Bentley's.  9 His exact title, I don't remember that.  10:05:06 10 Q. And what role or title did Mr. Murphy  11 have at Laboratorios Belmac during the same period?  12 A. I don't know.  13 Q. Do you know whether Mr. Murphy had any  14 title or position in Laboratorios Belmac?  10:05:38 15 A. No, I don't know. That everyone knew  16 that Mr. Murphy was the boss or was leading  17 Bentley, whatever his title was, and then -- and  18 that Belmac is an affiliate of Bentley's, I do not  19 know technically any more.  10:06:18 20 MR. FINE: Do you mind if we take a  21 break?  22 MR. MINGOLLA: Yeah, I was going to say.</p>

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10:06:24	1 Let's go off the record for a second.	10:22:06	1 A. You mean communicated or seen?
	2 THE VIDEOGRAPHER: The time is 10:05:57		2 Q. Communicated.
	3 Off the record.		3 A. Between five and eight times. I don't
	4 (Whereupon, at 10:05:57 a.m., a recess		4 remember. Maybe ten.
10:06:31	5 was taken, and the proceedings resumed at	10:22:23	5 Q. And how many times did you personally
	6 10:18:04 a.m., this same day.)		6 meet Mr. Murphy during your employment at
	7 THE VIDEOGRAPHER: On the record. The		7 Ethypharm?
	8 time is 10:18:04.		8 A. I don't recall exactly. I believe it
	9 BY MR. MINGOLLA:		9 was between three and four times.
10:18:33	10 Q. Mr. Germain, while you were employed at	10:22:46	10 Q. Aside from the meetings in person, how
	11 Ethypharm, did you have an understanding of the		11 did you communicate with Mr. Murphy?
	12 nature of the business of Bentley Pharmaceuticals?		12 A. Phone, two or three times. And then I
	13 A. Yes.		13 believe some exchanges by mail, two or three times,
	14 Q. And what was that understanding?		14 not much, not more.
10:19:15	15 A. Bentley Pharmaceuticals had in the U.S.	10:23:17	15 Q. Did you ever travel to the United States
	16 research and development activities; and, the		16 to Bentley's offices?
	17 affiliation in Spain where pharmaceuticals products		17 A. No, never.
	18 were manufactured and distributed.		18 Q. As of March 2000 were you employed at
	19 So in a nutshell, its development was		19 Ethypharm?
10:19:55	20 based in research of new product, but the bulk of	10:23:38	20 A. Yes. 2000, I believe, yes.
	21 its yield was -- was -- was made in Spain by the		21 MR. MINGOLLA: I'd like to have these
	22 affiliate Belmac, the way I understood it at the		22 marked as the first two exhibits.
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10:20:24	1 time.	10:23:56	1 (Germain Deposition Exhibit Nos. 1
	2 Q. Do you know whether Bentley		2 and 2 were marked for
	3 Pharmaceuticals had a manufacturing plant in Spain?		3 Identification.)
	4 MR. FINE: Objection. Vague.		4 BY THE INTERPRETER:
10:20:46	5 BY MR. MINGOLLA:	10:24:44	5 Q. Mr. Germain, you've just been handed
	6 Q. You can answer.		6 Exhibits (sic) 1 and Exhibits (sic) 2.
	7 A. Bentley, by -- by the intermediary of		7 If you could just take a moment to
	8 Belmac, had a factory in Zaragoza.		8 briefly skim the documents.
	9 Q. Have you ever been to that factory?		9 And while you're doing so, I'd like to
10:21:14	10 A. No.	10:24:55	10 identify them for the record.
	11 Q. Have you -- did you ever communicate		11 (Witness reviews documents.)
	12 with anyone at Bentley while you were employed at		12 MR. FINE: Um, it appears as though, um,
	13 Ethypharm?		13 something on the first page of Document No. 1 has
	14 THE INTERPRETER: When you were?		14 been redacted at the the bottom; is that correct?
10:21:36	15 MR. MINGOLLA: Employed at Ethypharm.	10:25:14	15 MR. MINGOLLA: Um, if so, it was a
	16 THE WITNESS: Yes, I communicated with		16 handwriting by an attorney so.
	17 Mr. Murphy.		17 For the record, Exhibit 1 is a multipage
	18 BY MR. MINGOLLA:		18 document bearing production numbers BEL 00548
	19 Q. Anyone else?		19 through 553.
10:21:50	20 A. No.	10:25:29	20 And Exhibit 2 is a multipage document
	21 Q. How many times did you communicate with		21 bearing production numbers EP 004863 through 4865.
	22 Mr. Murphy while you were employed at Ethypharm?		22

13 (Pages 46 to 49)

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<p>10:25:54 1 BY MR. MINGOLLA: 2 Q. Mr. Germain, do you recognize Exhibit 1? 3 A. No. 4 Q. Have you ever seen it before? 10:26:07 5 MR. FINE: Objection. 6 Outside of preparation for this 7 deposition. 8 BY MR. MINGOLLA: 9 Q. Did you ever see this document while you 10:26:15 10 were employed at Ethypharm? 11 A. I don't recall. 12 Q. What about Exhibit 2, did you ever see 13 that document while you were employed at Ethypharm? 14 A. I don't recall. 10:26:43 15 Q. I will represent to you that Exhibit 1 16 is a document Entitled Manu -- Manufacturing 17 Agreement. 18 A. (In English) Mm-hmm. 19 Q. Did you have any role with the 10:27:03 20 negotiation of Exhibit 1? 21 A. No. 22 Q. If you turn to the second page of</p>	<p>10:28:29 1 Q. Do you recognize the signature under 2 Ethypharm S.A.? 3 A. No, no. No, I don't, no. 4 Q. Do you know whether -- 10:28:47 5 A. No, I do not recognize. 6 Q. Okay. Do you know whether anyone at 7 Ethypharm France was involved in the negotiation of 8 either Exhibit 1 or Exhibit 2? 9 A. I can't respond to that question in a 10:29:14 10 general manner. 11 Normally, the people were designated to 12 sign for Ethypharm concerning commercial 13 agreements, where either the person in charge of 14 the local affiliate, the commercial director or 10:29:49 15 manager, that would be Yves Liorzou. 16 The legal management at the time it was 17 Mrs. Roseline Joannesse and Gérard Leduc. 18 Generally speaking, the proceeding went in that 19 fashion. 10:30:23 20 Q. And with respect to Exhibit 1, 21 specifically, do you know whether any of the 22 individuals you just testified were involved in the</p>
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<p>10:27:12 1 Exhibit 1, at the bottom of the page -- 2 A. (In English) Mm-hmm. 3 Q. -- do you see the two entities that are 4 listed there? 10:27:31 5 Do you see those? 6 A. (In French) Oui. 7 Q. What are those entities? 8 MR. FINE: Objection. Vague. 9 Do you want him to testify as to what's 10:27:41 10 on the page? 11 BY MR. MINGOLLA: 12 Q. Do you understand the question? 13 A. Yes. 14 At the left-hand side, Laboratorios 10:27:53 15 Ethypharm; and, at the right, Laboratorios Belmac. 16 Q. And similarly, on the bottom of the 17 first page of Exhibit 2, do you see the two 18 entities listed at the bottom of that page? 19 A. Yes. 10:28:14 20 Q. And what are those entities? 21 A. Ethypharm S.A. to the left; Laboratorios 22 Ethypharm Belmac to the right.</p>	<p>10:30:37 1 negotiation of that document? 2 A. No, I don't know. 3 Q. And what about Exhibit 2, do you know 4 whether any of those individuals were involved in 10:30:54 5 the negotiation of that document? 6 A. No. 7 Q. Did you ever see any drafts of Exhibit 1 8 or Exhibit 2 while you were employed at Ethypharm? 9 A. I do not recall. 10:31:22 10 May I say something? 11 Q. Sure. 12 A. At the time where I was leading the 13 group, there were always regards to contract 14 negotiations or renegotiation of pricing and 10:31:47 15 conditions, terms and conditions on a worldwide 16 level, between 10, 20 or 30 documents just like 17 this per day. 18 So in general, I only saw the main ones, 19 the most important ones and not always. 10:32:15 20 Q. Do you -- sitting here today, do you 21 recall specifically any contracts that you did see 22 while you were employed at Ethypharm?</p>

14 (Pages 50 to 53)



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10:32:29	1 MR. FINE: Objection.	10:36:12	1 Q. Does --
	2 Relating to what?		2 A. -- it isn't mentioned.
	3 BY MR. MINGOLLA:		3 Q. Does this document refresh your
	4 Q. Do you understand the question?		4 recollection --
10:32:34	5 A. Yes.	10:36:20	5 A. But I imagine that this might be Yves
	6 Q. And do you recall any such contracts?		6 Liorzou because, in general, it was he, himself,
	7 A. Like that?		7 who prepared the minutes, but I say this only with
	8 Q. Sure.		8 reservations.
	9 A. No.		9 Q. Does this document refresh your
10:32:45	10 Q. Um, earlier today you testified that you	10:36:45	10 recollection as to meeting -- visiting Madrid in
	11 had no responsibility with respect to contract		11 March of 2000?
	12 writing; is that correct?		12 A. A little bit, yes.
	13 A. That's correct.		13 Q. Looking at Item No. 1 on the first page
	14 Q. Mr. Germain, do you remember meeting --		14 of Exhibit 3, do you see the entry that says --
10:33:12	15 strike that.	10:37:11	15 A. (In English) MM-hmm.
	16 Do you remember visiting Madrid with		16 Q. -- it says PG, and those are your
	17 Messrs. Liorzou and Boudal in March of 2000?		17 initials, is that correct?
	18 A. I don't remember at what time, but I		18 YL, and those are the initials of
	19 remember that I went to Spain several times with		19 Mr. Liorzou; is that correct?
10:33:46	20 Mr. Liorzou and with Mr. Boudal at least once; and	10:37:25	20 A. (In French) Oui.
	21 the two, at the same time, without any doubt. But		21 Q. And PB, and those are the initials of
	22 I can't tell you whether this was in March, April		22 Mr. Boudal; is that correct?
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10:34:09	1 or May.	10:37:30	1 A. (In French) Oui.
	2 MR. MINGOLLA: I'd like to show you		2 Q. Arrived at 12:45 p.m. instead of
	3 another document.		3 10:30 a.m.?
	4 (Germain Deposition Exhibit No. 3 was		4 A. Yes.
10:34:16	5 marked for Identification.)	10:37:39	5 Q. Do you remember that occurring?
	6 THE WITNESS: Thank you.		6 A. Yes.
	7 BY MR. MINGOLLA:		7 Q. And why did you arrive late?
	8 Q. You've just been handed Exhibit 3.		8 A. Because planes sometimes have delays.
	9 And if you could just review that		9 Q. Item No. 2 indicates that A. Herrera
10:34:49	10 document. And while you're doing so, let me	10:38:05	10 came with Jim Murphy, president of Bentley,
	11 identify it for the record.		11 Belmac's parent company in the U.S.A.
	12 Exhibit 3 is a two-page document bearing		12 Do you remember meeting with Mr. Murphy
	13 production Nos. EP 005910 and 11.		13 on March 29th of 2000?
	14 (Witness reviews document.)		14 A. I remember having met Mr. Murphy in
10:35:38	15 A. (In English.) Okay.	10:38:37	15 2000. I do not have any specific recollection of
	16 Q. Do you -- do you recognize this		16 this exact meeting which is mentioned here.
	17 document?		17 Q. About two-thirds of the way down the
	18 A. Well, no. Well, I -- I recognize that		18 page there's an entry that says meeting with
	19 these are the minutes of the meeting. But I do not		19 A. Herrera and J. Murphy.
10:35:58	20 have any specific recollection of this document.	10:39:00	20 Do you see that?
	21 Q. Do you know who prepared Exhibit 3?		21 And the --
	22 A. No --		22 A. Yes.

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<p>10:39:06 1 Q. -- next entry says we all ate together 2 in Riofrio. 3 Do you remember that event? 4 A. I don't have any specific recollection 10:39:28 5 of this event, but if it is mentioned there, it 6 must have happened. But I really recall lunches 7 very rarely, because I try to pursue a certain 8 diet. 9 Q. I would -- I would now like to ask you 10:39:55 10 some questions -- I now would like to ask some 11 questions about the -- the document Exhibit 3 up 12 until that entry meeting with A. Herrera and Jim 13 Murphy. Okay? 14 Is that okay? 10:40:20 15 A. (In English.) Okay. 16 Q. Do you know whether Mr. Murphy and 17 Mr. Herrera were present for the discussion of 18 the -- of all of the issues up until the entry that 19 says meeting with A. Herrera and J. Murphy? 10:40:54 20 A. Quite frankly, I have no recollection. 21 I do not remember whether they were -- where they 22 participated in the first part of the meeting. But</p>	<p>10:42:27 1 then. 2 A. If you -- 3 Q. And -- 4 A. -- wish. 10:42:31 5 Q. -- do you see the sentence that begins 6 in French Un des points importants? 7 And I'll read it in English for the 8 record, One of the most important points that came 9 up in the meeting this morning was that we have to 10:42:49 10 say 4MFF? 11 MR. FINE: No. 12 THE INTERPRETER: This is not a rough 13 translation so I can't read this. I have to go 14 with the text. 10:43:06 15 MR. FINE: I'm going to object again on 16 the basis of the -- 17 THE INTERPRETER: May I respond? 18 BY MR. MINGOLLA: 19 Q. Sure. 10:43:13 20 A. It's simple. One of the main objectives 21 of Ethypharm when I started working for the 22 direction of this group was to improve the yield,</p>
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<p>10:41:11 1 I believe that if there was a meeting with regards 2 to the results, I mean, the yield, the figures and 3 the results of Ethypharm, apparently they should 4 not have done this. 10:41:30 5 Q. Okay. 6 A. That's my -- that's my assumption. 7 Q. There is a sentence that says they 8 presented Ethypharm Spain to PG who only showed 9 interest in numerical figures and results. 10:41:58 10 MR. FINE: I'm sorry? 11 THE INTERPRETER: No it's a different 12 sentence. Oh, this is a different -- 13 MR. FINE: I'm sorry. I'm objecting 14 here because there seems to be a discrepancy 10:42:15 15 between the -- 16 THE INTERPRETER: Uh-huh. 17 MR. FINE: -- translation -- 18 THE INTERPRETER: Yeah. 19 MR. FINE: -- and the document itself. 10:42:23 20 MR. MINGOLLA: Okay. 21 BY MR. MINGOLLA: 22 Q. Well, let's go on to another sentence</p>	<p>10:43:39 1 the figures, on a world -- on a worldwide level for 2 the entire group. 3 And so, it has been put in place, a 4 reduction and optimization plan for purchasing, 10:44:07 5 reduction of purchasing on a global level. This -- 6 this has to -- by that, I mean with regards to 7 general fees but also industrial. 8 So this also has to do, of course, with 9 the raw material which represents a large part. 10:44:34 10 And what I said in Spain was that reduction in the 11 optimization of costs and purchases would apply as 12 well for the affiliated in Spain. 13 Q. As of March 29th, 2000, how long had you 14 been employed at Ethypharm? 10:45:18 15 A. I don't remember. Between three and six 16 months, six months. 17 Q. Do you see the reference in the first 18 paragraph under Présentation d'Ethypharm Espagne, 19 the reference to saving of 4 million FF? 10:45:44 20 A. I do not understand. 21 Q. Do you see that reference? 22 A. (In French) Oui.</p>

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10:45:52	1 Q. Do you have --	10:48:50	1 In the next paragraph -- strike that.
	2 A. (In French) Oui.		2 Do you recall learning at this
	3 Q. Do you know what the abbreviation to		3 March 29th, 2000, meeting that Belmac represented
	4 4MMF is?		4 practically 60 percent of the sales of Omeprazole?
10:46:02	5 A. 4MMF means 4 million French francs,	10:49:13	5 A. I don't know whether it was in that
	6 which is about the same as 600,000 Euro or		6 meeting where I heard this.
	7 \$700,000, something like that.		7 Q. Were you surprised by that figure?
	8 Q. Do you recall that subject being		8 A. It was a manager meeting.
	9 discussed at this March 29th, 2000, meeting?		9 Q. And what does that mean?
10:46:46	10 A. With?	10:49:41	10 A. And it means if you have a manager
	11 Q. At any time during that meeting.		11 meeting you try to trigger among the team members a
	12 A. If it is written here, so that means		12 certain behavior and so that way there is a
	13 that it must have been done, yes.		13 possibility that you show in a fact of surprise
	14 Q. Do you know if Mr. de Basilio was		14 even though this fact is absent.
10:47:01	15 present at this meeting?	10:50:26	15 Well, I knew already that, for Belmac,
	16 A. I imagine, yes.		16 the figures in Spain was an important figure, that
	17 Q. Later on in that paragraph do you see		17 it -- that they discovered a figure of 60 percent.
	18 the reference to the new technology or nouvelles		18 That specific day, honestly, I do not recall.
	19 technology?		19 Q. If you wouldn't mind reading aloud the
10:47:27	20 Do you see that reference?	10:50:52	20 sentence that begins Il n'a pas beaucoup aimé.
	21 A. Yes.		21 A. Il n'a pas beaucoup aimé le fait que
	22 Q. Do you know what technology is being		22 nous n'ayons pas de contrat avec une réelle valeur
Page 63		Page 65	
10:47:32	1 referred to in that sentence?	10:50:54	1 juridique qui nous protègent en cas de retrait de
	2 MR. FINE: Objection as "to."		2 usines de Belmac (c'est à dire qui interdirait
	3 THE WITNESS: Yes, the patches.		3 Belmac de fabriquer des microgranules pour lui-même
	4 BY MR. MINGOLLA:		4 ou pour ses clients).
10:47:45	5 Q. And can you briefly describe what that	10:51:23	5 Q. And the translation that I have says,
	6 means?		6 Once more, it appeared that he didn't much like
	7 MR. FINE: Objection. Phase II.		7 that there wasn't a contract that stopped Belmac
	8 BY MR. MINGOLLA:		8 continuing manufacturing microgranules Omeprazole
	9 Q. You can answer.		9 powder if we are withdrawing from their facilities.
10:47:57	10 MR. FINE: I mean, if you want to go	10:51:37	10 Do you recall that subject being
	11 down this road, that's fine, but it's -- it		11 discussed at the March 29th, 2000, meeting?
	12 opens --		12 A. If it is mentioned in the minutes, that
	13 BY MR. MINGOLLA:		13 means that this topic has been tackled.
	14 Q. I -- I just asked for a single, a very		14 Q. As -- do you recall specifically any
10:48:01	15 brief description as to about what "patches" means.	10:52:04	15 discussion about that point at that meeting?
	16 A. A patch is a band-aid, which you --		16 A. No.
	17 which you put onto the skin in order to administer		17 Q. Did you pose any questions to anyone at
	18 a certain number of medication. For example -- for		18 the meeting about the status of the contract with
	19 example, the medication in order to prevent tobacco		19 Belmac?
10:48:33	20 use, pain, gynecologic -- gynecology.	10:52:34	20 A. We had, of course, discussions with
	21 Is that enough?		21 regards to the contractual nature with. Whom we
	22 Q. That's more than enough. Thank you.		22 did have these discussions exactly, I don't recall.

17 (Pages 62 to 65)

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<p>10:52:51 1 But I recall very well that I was surprised. I was 2 astonished that relations and relations which were 3 long-standing relations that the contractual aspect 4 did not seem to be completely covered.</p> <p>10:53:22 5 Q. Do you recall whether anyone had any 6 copies of any contracts with them at that meeting? 7 A. No. 8 Q. And the date of this meeting was when? 9 A. Twenty-ninth of March.</p> <p>10:53:46 10 Q. And if you turn to the bottom of page -- 11 of the page that's been marked as Exhibit 2. 12 (Whereupon, at 10:53:52 a.m., 13 Mr. Bostwick entered the proceedings.) 14 BY MR. MINGOLLA:</p> <p>10:54:01 15 Q. Do you see the date listed there? 16 A. Where? 17 Q. Exhibit 2. 18 A. (In English) I don't know. 19 Q. And what's the date listed there? 10:54:23 20 A. I don't see. 21 Q. Do you so at the bottom on the page 22 (indicating)?</p>	<p>10:56:04 1 BY MR. MINGOLLA: 2 Q. I'd like to ask you a couple of 3 questions about the section of Exhibit 3 that 4 begins Conclusions de la réunion. 10:56:09 5 A. In English) Mm-hmm. 6 Q. Do you see that section? 7 A. Yes. 8 Q. And the first entry says Omeprazole 9 liquid. If it is made in Spain it will be made at 10:56:32 10 Belmac. 11 Do you remember that issue being 12 discussed at the March 29th, 2000, meeting? 13 A. No, I do not precisely recall that 14 subject. 10:56:52 15 Q. Do you recall discussing that subject 16 with either Mr. Murphy or Mr. Herrera at that 17 meeting? 18 A. No. 19 Q. The next entry refers to the Petite GS, 10:57:07 20 the little GS. 21 Do you see that? 22 Do you know what that is in reference</p>
Page 67	Page 69
<p>10:54:36 1 A. The 23rd. 2 Q. Of what month? 3 A. March. Right? 4 Q. In what year? 10:54:46 5 A. 2000. 6 (In English) Mm-hmm. 7 Q. The next sentence of Exhibit 3 says, We 8 spoke briefly of the liquid formula. 9 Do you see that? 10:55:12 10 A. Yes. 11 Q. And it says, It is a subject that isn't 12 solved at PD, G -- GO and PGs levels. 13 Do you see that? 14 THE INTERPRETER: What is this? 10:55:32 15 MR. FINE: Objection. 16 I don't see that in the -- the document 17 itself. 18 THE INTERPRETER: Yeah, I didn't find it 19 either so. 10:55:45 20 MR. MINGOLLA: Okay. 21 Strike that question, please. 22</p>	<p>10:57:16 1 to? 2 A. A small GS, no, I have no idea. 3 (In English.) No. 4 Q. Turning the page to Exhibit 3 and the 10:57:35 5 last section which says PG a répondu á nos 6 questions, which I understand means PG answered our 7 questions. 8 Could you read -- 9 A. Yes. 10:57:54 10 Q. -- Item No. 1, please, to yourself 11 and -- and let me if you recall that issue being 12 discussed at the meeting. 13 A. (In French) RH évolutions futures: 14 Avant débaucher qui que ce soit dans le groupe il 10:58:02 15 faut que nous définissions nos activités et notre 16 organisation actuelles, que nous mettions en 17 adéquation activités et ressources, ensuite 18 seulement s'il faut on verra s'il est vraiment 19 nécessaire d'embaucher des gens. 10:58:35 20 Q. Do you recall that issue being discussed 21 at the March 29th, 2000, meeting? 22 A. No, I do not recall. But if it is part</p>

18 (Pages 66 to 69)

## ESQUIRE DEPOSITION SERVICES

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<p>10:58:51 1 of the minutes, that means there must have been 2 discussion. 3 Q. Do you have an understanding about what 4 Item 1 is referring to?</p> <p>10:59:17 5 A. Well, I imagine that questions were 6 raised from the Spanish affiliates with regards to 7 recruitment, and fears must have been expressed, as 8 this is often the case. And I -- and I remember 9 that -- and this might not have happened during 10 this meeting, but, in this vein, I remember having 11 said, in fact, that in Spain and in the other 12 structures of this group that the recruiting 13 strategy was under control.</p> <p>10:59:43 14 Q. As to Item No. 3, Question du monopole 11:00:10 15 pour le marché espagn/Portugal, do you see that?</p> <p>16 A. Yes.</p> <p>17 Q. Do you have an understanding about what 18 that references to?</p> <p>19 A. Yes.</p> <p>11:00:26 20 Q. And what is that understanding?</p> <p>21 A. That what I understand, I mean my answer 22 to the question was that concerning all the</p>	<p>11:03:24 1 a -- a customer service department at Ethypharm, 2 yes. It seems to me that the customer service was 3 part of the organizations which I restructured. 4 And I'm going to answer your question.</p> <p>11:03:59 5 And that that part -- 6 (Whereupon, at 11:04:03 a.m., 7 Mr. Bostwick exited the proceedings.) 8 A. -- which was located in Paris was more 9 important after my arrival than before.</p> <p>11:04:12 10 I don't know if I answered your question 11 to your satisfaction. 12 Q. You did. Thank you. 13 Do you recall during this March 29th, 14 2000, meeting whether the issue of scaling back the 11:04:27 15 operations of Ethypharm Spain ever arose?</p> <p>16 A. The reduction -- 17 THE INTERPRETER: May I clarify 18 something? 19 MR. MINGOLLA: Please do.</p> <p>11:05:06 20 THE WITNESS: Reduction of the -- of the 21 personnel it was one of my objectives. If you 22 manage a company and if you try to lower the number</p>
Page 71	Page 73
<p>11:00:56 1 technologies except for the program foreign 2 technologies, but that I mean flash tab, 3 technology, that everything needed to be under 4 agreement with Yves Liorzou with the exception 11:01:26 5 of -- with the exemption of flash tab which needs 6 to be dealt with, with Mr. Bruno Delie.</p> <p>7 Q. Do you know whether -- while you were 8 employed at Ethypharm, anyone employed at Ethypharm 9 Spain had any responsibilities with respect to 11:01:57 10 customer service?</p> <p>11 A. In Ethypharm -- at Ethypharm, globally, 12 the customer -- the customer service department was 13 located in Paris, at a site a hundred kilometers 14 away from Paris, but it seems, to me, and I am not 11:02:41 15 sure, that there was some type of client service -- 16 the customer service in Spain, but I am not sure of 17 that.</p> <p>18 Q. Was the customer service department in 19 Paris that you just referred to located in Paris 11:03:04 20 from the first day that you were employed at 21 Ethypharm?</p> <p>22 A. When I arrived at Ethypharm, there was</p>	<p>11:05:20 1 of personnel, you generally do it very carefully 2 and with some human touch to it. I don't know if I 3 mentioned a reduction of the number of personnel in 4 such a global meeting once in my life, whether this 11:05:55 5 was at Ethypharm, or in what ever other company.</p> <p>6 Did I respond to your satisfaction?</p> <p>7 BY MR. MINGOLLA: 8 Q. Yes. 9 Now earlier today you testified that 11:06:09 10 Ethypharm Spain had between five and ten employees 11 when you started at Ethypharm. 12 Do you recall that?</p> <p>13 A. Yes. 14 Q. And you indicated that when you left 11:06:30 15 Ethypharm there were five to ten employees at 16 Ethypharm Spain?</p> <p>17 A. Yes, I recall that. 18 Q. Do you know whether the number of 19 employees changed downward while you were employed 11:06:50 20 at Ethypharm?</p> <p>21 A. (In English) No. 22 (Through the Interpreter) No, I don't</p>

19 (Pages 70 to 73)

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<p>11:06:59 1 know. But on the other hand, the projects of 2 reduction in Spain and in other structures were not 3 yet established at that time period. 4 Q. Just two or three final questions about 11:07:25 5 this March 29th, 2000, meeting. 6 Sitting here today, do you recall any 7 specific statement that you made to Mr. Murphy at 8 that meeting? 9 A. No. 11:07:49 10 Q. Do you recall any specific statement 11 made by Mr. Murphy at this meeting? 12 A. No. 13 Q. Do you recall making any specific 14 statement to Mr. Herrera at this March 29th, 2000, 11:08:06 15 meeting? 16 A. No. 17 Q. And do you recall any specific statement 18 by Mr. Herrera at this meeting? 19 A. No. 11:08:29 20 MR. MINGOLLA: Let's go off the record 21 briefly so that we can change tapes. 22 THE VIDEOGRAPHER: This ends tape number</p>	<p>11:19:06 1 production No. EP 003595. 2 Let me know when you've had a chance to 3 review it. 4 A. (In English.) Okay. 11:19:24 5 Q. Do you see your name listed in the "To" 6 box of Exhibit 4? 7 A. Yes. 8 Q. And what is the date of the document? 9 A. May 4, 2000. 11:19:41 10 Q. And do you see that the document is from 11 Adolfo de Basilio? 12 A. (In French) Oui. 13 Q. Do you recognize this document? 14 A. No. 11:19:54 15 Q. Do you have any reason to believe you 16 did not receive this document when you were 17 employed at Ethypharm? 18 A. No. If this document was addressed to 19 me while I was working at Ethypharm, I obligatory 11:20:17 20 received it. 21 Q. The first sentence of Exhibit 4 22 references a meeting with the medication agency</p>
Page 75	Page 77
<p>11:08:35 1 one of the Germain deposition. 2 The time is 11:08:12. 3 Off the record. 4 (A brief recess was taken for 11:08:42 5 videographer to change videotape.) 6 (Germain Deposition Exhibit No. 4 was 7 marked for Identification.) 8 THE VIDEOGRAPHER: On the record with 9 tape number two of the testimony of Pierre Germain 11:18:33 10 in the matter of Ethypharm versus Bentley 11 Pharmaceuticals. 12 The date is August 1, 2006. 13 The time is 11:18/15. 14 BY MR. MINGOLLA: 11:18:45 15 Q. Mr. Germain, you have before you what's 16 been marked as Exhibit 4; is that correct? 17 A. Yes. 18 Q. And if you could just take a moment to 19 review that document while I identify it for the 11:18:58 20 record, please. 21 (Witness reviews document.) 22 Q. Exhibit 4 is a one-page document bearing</p>	<p>11:20:27 1 l'Agence du Médicament. 2 Do you see that? 3 A. Yes. 4 Q. Do you know whether that is a French 11:20:40 5 agency or a Spanish agency? 6 A. I imagine that this must be the Spanish 7 agency of the medication, I imagine. 8 Q. Later on in that first paragraph do you 9 see the sentence which reads Belmac exported in our 11:21:10 10 own name and also must have signed the contracts 11 for manufacturing by a third-party with our 12 customers? 13 A. Yes. 14 Q. Did you understand whether that 11:21:35 15 accurately reflected the arrangement between Belmac 16 and Ethypharm Spain back in May of 2000? 17 MR. FINE: Objection. Vague. 18 Basis for explaining that that is -- 19 MR. MINGOLLA: No -- 11:22:02 20 MR. FINE: -- the relationship. 21 MR. MINGOLLA: -- speaking objection, 22 please.</p>

20 (Pages 74 to 77)



## ESQUIRE DEPOSITION SERVICES

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<p>11:22:05 1 Your objection is noted. 2 THE WITNESS: I don't understand the 3 question. 4 BY MR. MINGOLLA: 11:22:10 5 Q. Did -- while you were employed as the 6 general director of Ethypharm Group, did you know 7 that Belmac exported in Ethypharm Spain's name? 8 A. I don't recall. 9 Q. Later on in that document there is a 11:22:39 10 reference to -- in Item No. 2 which says, We have 11 signed a production agreement for Omeprazole with 12 Belmac. 13 Do you see that sentence? 14 A. (In French) Oui. 11:22:59 15 Q. Were you aware that that contract had 16 been signed? 17 A. No. This specific contract, no. On the 18 other hand, I saw -- I saw plenty of types of 19 contracts, a few, a few contracts, which reflected 11:23:36 20 this issue. 21 Q. And the contracts to which you just 22 referred were those contracts with Belmac?</p>	<p>11:25:55 1 A. Well, the people in charge of the 2 affiliate -- of the affiliates signs as far as I 3 know contracts which had to do with the framework 4 of their affiliation. 11:26:26 5 Q. The -- the sentence of Exhibit 4 that we 6 just looked to of Exhibit 4 that we just looked at 7 references a signed production agreement for 8 Omeprazole with Belmac. 9 A. (In English) Mm-hmm. 11:26:53 10 Q. Do you know whether that reference is to 11 the document that has been marked as Exhibit 1? 12 A. I don't know. 13 Q. Item No. 3 of Exhibit 4 indicates that, 14 We are progressively changing the old third party 11:27:16 15 manufacturing contracts with Belmac and our 16 customers. 17 Do you have an understanding as to what 18 that references to? 19 A. I imagine that this is a reference to 11:27:49 20 the change in formulation and that it has been 21 decided for technical reasons to do the transfer of 22 the delivery in a progressive manner for customer</p>
Page 79	Page 81
<p>11:23:52 1 A. I don't remember. 2 Q. Do you know whether Ethypharm Spain were 3 parties to the contracts you just referred to? 4 A. What I told you just before, the 11:24:18 5 contracts were signed either by somebody in charge 6 of the affiliates or by Gérard Leduc or by the 7 legal management or sometimes by Yves Liorzou or 8 Philippe Boudal, concerning the department for 9 the -- the industrial customer. That means -- that 11:25:03 10 means with regards to the nature of the contract, 11 it depends on the nature of the contract. 12 So depending on the nature of the 13 contract, this might have been this one or the 14 other person who signed. 11:25:25 15 Q. Do you recall that some of the contracts 16 you sought while you were employed at Ethypharm 17 were signed by persons from the local affiliates? 18 A. Local affiliates you said. Right? 19 Q. Yes. 11:25:50 20 A. Yes, sure. 21 Q. Do you have an understanding as to why 22 those persons would sign some of the contracts?</p>	<p>11:28:19 1 management reasons. 2 Q. Were you involved in making any of those 3 decisions for technical reasons that you just 4 described? 11:28:36 5 A. No. 6 Q. Was that -- were those technical -- 7 strike that. 8 Were those decisions made at the 9 subsidiary level, for example, in this case, by 11:28:48 10 people at Ethypharm Spain? 11 A. I imagine no. 12 Q. Do you know who would have been involved 13 in -- in making those decisions? 14 MR. FINE: Objection. Calls for 11:29:07 15 speculation. 16 THE WITNESS: I assume that because 17 there is reference done through a modification on a 18 global level that the decisions, which are 19 technical decisions, are taken in common agreement 11:29:46 20 between the commercial and the industrial 21 departments. 22</p>

21 (Pages 78 to 81)

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## ESQUIRE DEPOSITION SERVICES

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<p>11:29:52 1 BY MR. MINGOLLA: 2 Q. Now Item 3 says, We are progressively 3 changing the old third-party manufacturing 4 contracts. 11:29:58 5 Do you see that? 6 Do you know who -- what the reference to 7 "we" includes? 8 A. Group Ethypharm. 9 Q. And is that Ethypharm Spain? 11:30:14 10 A. No, for the same reasons as the one I 11 mentioned just a few minutes ago, because this is 12 a -- a company decision -- it's a global company 13 decision. 14 Q. This document was sent by 11:30:35 15 Mr. de Basilio; is that correct? 16 A. Yes. 17 Q. Did Mr. -- 18 MR. FINE: Objection. Foundation. 19 BY MR. MINGOLLA: 11:30:45 20 Q. Did Mr. de Basilio have any title or 21 responsibility in Ethypharm Group aside from his 22 responsibilities in Ethypharm Spain?</p>	<p>11:33:37 1 today correctly, you had no duties or 2 responsibilities with respect to contracts; is that 3 correct? 4 A. No, I did not deal with them. 11:34:03 5 Q. Okay. We're done with that document. 6 MR. MINGOLLA: I would like to have this 7 marked as the next exhibit. 8 THE WITNESS: What am I doing with the 9 document? Do I keep that -- 11:34:32 10 MR. MINGOLLA: You can keep that in 11 front of you. I'm sorry. 12 Mark that. 13 I'm sorry about that. 14 That's number five? 11:34:37 15 THE COURT REPORTER: (Nodded 16 affirmatively.) 17 (Germain Deposition Exhibit No. 5 was 18 marked for Identification.) 19 BY MR. MINGOLLA: 11:34:54 20 Q. If you could just take a moment to 21 review what's been marked as Exhibit 5. And while 22 you're doing so, let me identify it for the record.</p>
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<p>11:31:13 1 A. No, he did not have any other 2 responsibility within this group other than the one 3 he had in Spain. And I think that he makes 4 reference here with regards to proposals, 11:31:36 5 suggestions, which are meant -- I mean which are 6 towards me to Yves Liorzou, to Pierre Benham, who 7 was at the time the person in charge of customer 8 service and Hélène Carpentier was in charge of 9 regulatory affairs. 11:32:16 10 Because anyway, for this type of 11 decision, it is imperative because we are a 12 pharmaceutical laboratory to have the agreement, 13 which you have the pre-existing agreement of 14 regulatory affairs. 11:32:37 15 Q. Are you aware of any contracts that were 16 entered while you were employed at Ethypharm 17 between Laboratorios Belmac and Ethypharm France? 18 A. No. This doesn't mean that there have 19 not been any. I saw -- I saw contract drafts, 11:33:21 20 drafts of contracts or contracts, but I don't 21 remember whether it was Spain, France. 22 Q. And if I recall your testimony earlier</p>	<p>11:35:01 1 Exhibit 5 is a two-page document bearing 2 production Nos. EP 003272 and 73. 3 (Witness reviews document.) 4 A. (In English) Yes. 11:35:26 5 Q. Do you recognize that document? 6 A. No. 7 Q. Do you see that you are listed as a cc? 8 A. Yes. 9 Q. And what's the date of this document? 11:35:48 10 A. May 12th, 2000. 11 Q. And the letter is addressed to Adolfo 12 Herrera at Belmac. 13 Do you see that? 14 A. Yes. 11:36:01 15 Q. And do you have an understanding as to 16 what position Mr. Herrera had at Belmac at the 17 time? 18 A. From memory, he's in charge of -- he's 19 one of the people in charge of Belmac Spain. 11:36:29 20 Q. And the letter is from Adolfo 21 de Basilio. 22 Do you see that?</p>

22 (Pages 82 to 85)

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<p>11:36:39 1 A. (In French) Oui.  2 Q. Now I'm looking at the first sentence of  3 the translation of the document, which  4 references -- which says as follows:  11:36:52 5 Dear Adolfo, as you well know, there was  6 a meeting in Paris between your chairman,  7 Mr. Murphy, and our general director, Mr. Germain.  8 During that meeting Mr. Murphy commented that Mateo  9 Gasca had been dismissed.  11:37:26 10 As a result of this comment, Mr. Germain  11 is requesting an official communication of a fax in  12 writing.  13 My first question is, is do you recall  14 meeting -- the meeting that's referenced in that  11:37:49 15 document?  16 A. No. I remember having seen Mr. Murphy  17 in Paris but not linked to this specific subject.  18 Q. And just so I'm clear, when you say that  19 recall meeting Mr. Murphy in Paris, do you recall  11:38:18 20 meeting him in or around May of 2000?  21 A. Yes, I must have seen him during the  22 first semester of 2000 or -- or second trimester,</p>	<p>11:39:57 1 A. Two, I think.  2 Q. Do you remember when the first meeting  3 took place?  4 A. No.  11:40:05 5 Q. Do you remember when the second meeting  6 took place?  7 A. (In English) No, no.  8 Q. Do you remember who -- let's -- let's  9 focus on the -- are the two meetings separate in  11:40:15 10 your mind?  11 A. Yes.  12 Q. Let's focus on the first meeting.  13 Do you know who else was present at the  14 meeting aside from yourself and Mr. Murphy?  11:40:40 15 A. It seems, to me, that the first time I  16 ever encountered Mr. Murphy I was introduced by  17 either Patrice Debréas or Mr. Leduc. I do not  18 know. I don't recall exactly. Maybe the two  19 together.  11:41:06 20 Q. And do you remember whether this was  21 the -- literally the first time you ever saw  22 Mr. Murphy?</p>
Page 87	Page 89
<p>11:38:43 1 somewhere in that area.  2 Q. Do you remember what subject or subjects  3 you did discuss with Mr. Murphy at this meeting  4 you're referring to?  11:38:59 5 A. I recall very well the subjects which I  6 tackled with Mr. Murphy during that meeting -- oh,  7 during the meetings, sorry -- during the meetings,  8 which we had together.  9 Q. And are these two meetings in the year  11:39:15 10 2000?  11 MR. FINE: Objection. Mischaracterizes  12 testimony.  13 I don't think he said two meetings.  14 MR. MINGOLLA: Can I hear back his last  11:39:25 15 answer that I must have misheard, and it's quite  16 possible I did.  17 (Whereupon, the court reporter read back  18 the previous answer.)  19 BY MR. MINGOLLA:  11:39:41 20 Q. Just so I'm clear, do you recall one  21 meeting with Mr. Murphy in Paris during the year  22 2000 or more than one meeting?</p>	<p>11:41:20 1 A. Yes, I think, yes.  2 Q. Earlier today we looked at Exhibit 3 --  3 A. No, I'm going to give a more -- a more  4 exact explanation, because your question is very  11:41:39 5 precise.  6 Q. Go on.  7 A. When we discussed with Mr. Murphy, who  8 is an adorable man, we talked a little bit about  9 our past. He said to me that he worked previously  11:42:08 10 with SmithKline -- SmithKline Beecham. And since I  11 know SmithKline Beecham very well, it was not  12 impossible for him, the same way as it wasn't for  13 me, that we crossed -- that our paths crossed  14 accidentally, at SmithKline Beecham, but neither he  11:42:40 15 nor me were really sure about that.  16 Was this satisfactory as a response?  17 Q. That was.  18 And now I'd like to focus upon the time  19 when you were employed at Ethypharm. And we saw  11:43:03 20 on -- in Exhibit 3 --  21 A. (In French) Oui.  22 Q. -- which is dated March 29th, 2000, that</p>

23 (Pages 86 to 89)



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<p>11:43:14 1 there was a reference to a reunion, a meeting, with 2 Mr. Herrera and Mr. Murphy. 3 Do you see that? 4 A. Yes.</p> <p>11:43:29 5 Q. And my question is whether this first 6 meeting that you just described took place before 7 or after this March 29th, 2000, meeting? 8 A. I am not able to respond to that 9 question.</p> <p>11:43:53 10 Q. That's fair enough. 11 You -- you indicated that with respect 12 to this first meeting you were introduced either by 13 Mr. Debrégeas or Mr. Leduc; is that correct? 14 A. That's -- that is what -- what it seemed 11:44:16 15 to me, yes. 16 Q. Do you remember how long this meeting 17 lasted? 18 A. No. 19 Q. Was it an all-day meeting? 11:44:29 20 A. No. 21 Q. Was it more than an hour? 22 A. Yes.</p>	<p>11:46:15 1 Q. I understand. 2 Do you know who requested this first 3 meeting? 4 Was it Mr. Murphy? 11:46:22 5 Was it yourself? 6 Was it someone else? 7 A. I don't know. 8 It seems, to me, that Mr. Murphy was in 9 the offices of Saint Cloud to discuss with 11:46:49 10 Mr. Debrégeas or Leduc, and it was at that point 11 that Mr. Debrégeas or Leduc came to present the new 12 general director. It seems to me that this is how 13 it happened, but there was no meeting requested by 14 myself to meet with Mr. Murphy nor was there a 11:47:27 15 meeting requested by him to meet me. 16 Q. Do you know what Mr. Murphy and either 17 Mr. Debrégeas and Mr. Leduc were discussing at this 18 meeting before they came to -- to present to you to 19 Mr. Murphy? 11:47:54 20 A. Absolutely not. 21 Q. And when Mr. Murphy was presented to 22 you, do you know Mr. Debrégeas or Mr. Leduc stayed</p>
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<p>11:44:35 1 Q. Was it fewer than three hours? 2 A. I imagine that this was a normal meeting 3 somewhere between one and a half and three hours. 4 Q. And did this meeting take place in Saint 11:44:55 5 Cloud? 6 A. The first one I think -- from memory, I 7 believe that it was in Saint Cloud. 8 Q. Did you -- do you recall going to lunch 9 with Mr. Murphy? 11:45:15 10 A. I recall very well having had lunch with 11 Mr. Murphy, but I did not remember if that was the 12 first time we met or not and whether it was lunch 13 or dinner. 14 Q. Okay. 11:45:47 15 A. So I must have like many other man -- 16 directors of companies, one or two lunches or 17 dinners per day -- 18 Q. Mm-hmm. 19 A. -- and I have to admit that after six 11:46:01 20 years, I have a terrible time recalling with whom I 21 did, at what time, and what restaurant, and of the 22 menu.</p>	<p>11:48:01 1 with you for the one and half to three hours or was 2 it just the two of you. 3 A. No, I don't recall at all. 4 Q. Do you recall what subjects were 11:48:22 5 discussed during your meeting with Mr. Murphy? 6 A. The first one? 7 Q. Yes. 8 A. No. I imagine that we introduced 9 ourselves and that we discussed subjects from that 11:48:51 10 time or from the future, but I don't know. I don't 11 recall. 12 MR. MINGOLLA: Can I have this marked as 13 the next exhibit, please. 14 (Germain Deposition Exhibit No. 6 was 11:49:07 15 marked for Identification.) 16 BY MR. MINGOLLA: 17 Q. You've been handed what's been marked as 18 Exhibit 6. 19 And while you review that lengthy 11:49:27 20 document, let me identify it for the record. 21 It's a one-page document bearing 22 production No. BEL051024.</p>

24 (Pages 90 to 93)

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<p>11:49:33 1 And it's difficulty to tell from the 2 copying, so let me represent to you, Mr. Germain, 3 that is -- this is a copy of a business card. 4 A. (In English) Mm-hmm. 11:49:45 5 Q. And do you see the -- the company that's 6 listed on that card? 7 A. (In French) Oui. 8 (In English) Belmac. 9 Q. And do you see the name of James R. 11:50:00 10 Murphy on that card? 11 A. (In French) Oui. 12 Q. And what's his title? 13 What's listed underneath his name? 14 A. President. 11:50:08 15 Q. Do you recall receiving a business card 16 from Mr. Murphy at this first meeting we've been 17 talking about in the last few minutes? 18 A. I can imagine that, as it happened so 19 frequently, that we exchanged our business cards. 11:50:32 20 Q. Let me -- 21 A. But I do not know whether it was this 22 one.</p>	<p>11:47:24 1 (Whereupon, the Court Reporter read back 2 the previous answer.) 3 BY MR. MINGOLLA: 4 Q. Am I correct in understanding you have 11:53:00 5 never met Mr. Gasca? 6 A. (In English.) No, I don't think so. 7 Q. And do you recall learning that the 8 circumstances of the dismissal of Mr. Gasca from 9 Mr. Murphy? 11:53:31 10 A. I don't know whether it was Mr. Murphy 11 who dismissed him or not. I know that it was 12 mentioned here and it might be the case, and the 13 reasons for which this man, who I do not know, has 14 been dismissed are unknown to me or Ethypharm. 11:54:06 15 Maybe I was told the reasons, but I don't know. 16 Q. So sitting here today, you don't know 17 exactly who fired Mr. Gasca; is that correct? 18 A. No, I don't know. 19 Q. Do you recall requesting Mr. de Basilio 11:54:33 20 to get a written explanation of the reasons for 21 Mr. Gasca's firing? 22 A. No, I do not recall that. That must</p>
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<p>11:50:40 1 Q. Okay. Turning back to Exhibit 5 for a 2 moment. 3 A. (In English) Mm-hmm. 4 Q. There was a reference to a Mateo Gasca. 11:51:05 5 A. (In French) Oui. 6 Q. Do you know who Mr. Gasca is? 7 A. No. 8 Q. Do you know whether he was employed in 9 Spain or in France? 11:51:21 10 A. No. 11 Q. Do you ever recall -- go ahead. 12 A. Yes; I don't know him. But I remember 13 this story of dismissal of a person, for reasons 14 which I may have known at the time but which I 11:51:46 15 forgot, that, in fact, he was dismissed by Belmac 16 or by Mr. Murphy. I don't recall. And I have a 17 vague memory of that. 18 On the other hand, I have never seen 19 Mr. Murphy or this card. I don't know him 11:52:23 20 personally. 21 MR. MINGOLLA: Could I just hear that 22 answer back, please.</p>	<p>11:54:55 1 have been the case because it is written in the 2 minutes, but I don't remember. 3 Q. Do you know whether you asked Mr. Murphy 4 to give you an explanation, a written explanation, 11:55:07 5 of the reasons for Mr. Gasca's firing? 6 A. No, I don't remember. 7 Q. Do you have an understanding as to why 8 Mr. de Basilio directed a request for the reasons 9 for Mr. Gasca's termination to Mr. Herrera at 11:55:53 10 Belmac? 11 A. No, I do not recall that. I vaguely 12 recall something, but it is a long time ago. So I 13 risk to say something which is vague. 14 Q. Well, I don't mind vagueness. 11:56:20 15 Why don't you tell me what you vaguely 16 recall? 17 A. (In English) No. 18 Q. I insist. 19 MR. MINGOLLA: Can I hear that last 11:56:31 20 statement of his, please. 21 THE WITNESS: It went very well. 22 MR. FINE: Can you translate that still.</p>

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<p>11:56:33 1 THE COURT REPORTER: What did you say?</p> <p>2 THE INTERPRETER: I -- I really don't</p> <p>3 know.</p> <p>4 MR. MINGOLLA: Oh, okay. That's --</p> <p>11:56:54 5 strike that.</p> <p>6 We don't even need to hear that back.</p> <p>7 Can I have this marked as the next</p> <p>8 exhibit, please.</p> <p>9 (Germain Deposition Exhibit No. 7 was</p> <p>11:56:59 10 marked for Identification.)</p> <p>11 BY MR. MINGOLLA:</p> <p>12 Q. Mr. Germain, you've just been handed</p> <p>13 what's been marked as Exhibit 7.</p> <p>14 And if you'll just take a moment to</p> <p>11:57:31 15 review it while I identify it for the record.</p> <p>16 Exhibit 7 is a two-page document bearing</p> <p>17 production Nos. EP 005915 and 16.</p> <p>18 (Witness reviews document.)</p> <p>19 THE WITNESS: Okay.</p> <p>11:58:35 20 BY MR. MINGOLLA:</p> <p>21 Q. Do you recognize this document?</p> <p>22 A. No.</p>	<p>12:00:04 1 Q. Sure.</p> <p>2 A. When I was managing Ethypharm, there</p> <p>3 were about 700 people working at Ethypharm, more if</p> <p>4 you also take into account the affiliates, and I</p> <p>12:00:23 5 assumed that I -- well, I admitted that I must have</p> <p>6 known probably a hundred, and that there were at</p> <p>7 least the 600 people, which name I am -- I do not</p> <p>8 remember. If it was in existence, I don't</p> <p>9 remember.</p> <p>12:00:44 10 Q. Going back to paragraph numbered one, do</p> <p>11 you see the reference to an AMM?</p> <p>12 A. (In French) Oui.</p> <p>13 Q. Do you know what that is in reference</p> <p>14 to?</p> <p>12:01:01 15 A. (In French) Oui.</p> <p>16 Q. What is that?</p> <p>17 A. It's the authorization to put something</p> <p>18 on the market.</p> <p>19 Q. And is that an authorization that's</p> <p>12:01:16 20 issued by a governmental authority?</p> <p>21 A. Yes; and in every country.</p> <p>22 Q. And the specific AMM referenced in</p>
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<p>11:58:40 1 Q. What's the date listed on this document?</p> <p>2 A. May 18, 2000.</p> <p>3 Q. And do you see that you are listed as a</p> <p>4 cc to this letter?</p> <p>11:58:55 5 A. Yes.</p> <p>6 Q. And who is the letter from?</p> <p>7 A. Adolfo de Basilio.</p> <p>8 Q. And the recipient of this letter is</p> <p>9 Agn�s Combe-Reinhardt.</p> <p>11:59:09 10 Do you know who that person is?</p> <p>11 A. No.</p> <p>12 Q. Underneath Agn�s Combe-Reinhardt's name</p> <p>13 it list the company as Ethypharm.</p> <p>14 A. Yes.</p> <p>11:59:32 15 Q. Do you have any reason to believe that</p> <p>16 that person was not an employee of Ethypharm?</p> <p>17 A. No.</p> <p>18 Q. The paragraph, the first numbered</p> <p>19 paragraph of Exhibit 7 references in an AMM.</p> <p>11:59:49 20 Do you see that?</p> <p>21 A. May I say something with regards to</p> <p>22 Agn�s?</p>	<p>12:01:30 1 paragraph No. 1 do you have an understanding as to</p> <p>2 whether that is an AMM issued by the Spanish</p> <p>3 government?</p> <p>4 A. An AMM can be local. It can be European</p> <p>12:02:00 5 or it can be object of a mutual combination on an</p> <p>6 international level.</p> <p>7 Q. Now this document was sent by -- it</p> <p>8 purports to have been sent by Mr. de Basilio.</p> <p>9 Do you see that?</p> <p>12:02:22 10 A. Yes.</p> <p>11 Q. And he -- and he was an employee in</p> <p>12 Ethypharm Spain; is that correct?</p> <p>13 A. Yes.</p> <p>14 Q. Do you know whether Mr. de Basilio ever</p> <p>12:02:32 15 obtained an AMM from a governmental agency aside</p> <p>16 from the Spanish government?</p> <p>17 A. I do not understand the question.</p> <p>18 Q. A moment ago you mentioned that an AMM</p> <p>19 may be issued by a specific governmental</p> <p>12:03:02 20 authority --</p> <p>21 A. (In English) Mm-hmm.</p> <p>22 Q. -- is that correct?</p>

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12:03:13	1 A. Yes.	12:06:35	1 turning their backs on us little by little --
	2 Q. And is it possible to receive an AMM		2 Ferrer, F-E-R-R-E-R, Rubió, Lacer and Glaxo,
	3 from multiple government authorities?		3 because at the moment, when they were contacted,
	4 A. Yes.		4 Ethypharm was not able to tell them what the
12:03:25	5 Q. And do you have -- do you know whether	12:06:49	5 manufacturing site would be. That was one of their
	6 Mr. de Basilio obtained any AMM from the Spanish		6 first questions.
	7 governmental authorities while you were employed at		7 Do you see that sentence?
	8 Ethypharm?		8 A. Yes.
	9 A. I don't know -- I don't know if it was		9 Q. Do you have an understanding about what
12:03:58	10 him directly or him and a combination with	12:06:59	10 that is in reference to?
	11 regulatory affairs of the group. I don't have any		11 Can I just -- could you translate that?
	12 idea.		12 A. In that sentence reference is made by
	13 Q. Okay.		13 Adolfo de Basilio --
	14 A. (In English) I don't know.		14 Q. Okay.
12:04:08	15 Q. Okay. That first sentence references --	12:07:27	15 A. -- that a certain number of customers
	16 A. In the Spanish affiliate you have		16 were concerned by the fact that the manufacturing
	17 somebody in charge of regulatory affairs so it is		17 site was not clearly defined.
	18 not impossible that the Spanish affiliates might		18 (Whereupon, at 12:07:50 p.m.,
	19 have asked for authorizations to put on the market		19 Mr. Bostwick entered the proceedings.)
12:04:40	20 on a local level --	12:07:53	20 BY MR. MINGOLLA:
	21 Q. Okay.		21 Q. And do you know what manufacturing site
	22 A. -- from local authorities.		22 he's referring to there?
Page 103		Page 105	
12:04:54	1 But in any way, and without any doubt,	12:08:11	1 A. No. With regards to the formulation,
	2 with having a -- a pre-existing agreement with		2 Zaragoza or France, I imagine.
	3 regulatory affairs of the group, and like it is the		3 Q. And do you know what the product or
	4 case in every pharmaceutical lab in the world.		4 products to be manufactured at that manufacturing
12:05:11	5 Q. The end of the first sentence of the	12:08:23	5 site are?
	6 first paragraph references an AMM obtained by MRP.		6 A. Which sites?
	7 Do you see that? Do you see that?		7 Q. That's my question to you.
	8 A. Yes.		8 Do you know what products?
	9 Q. Do you know what the reference to MRP		9 A. Which sites?
12:05:34	10 is?	12:08:43	10 Q. At the manufacturing sites to which you
	11 A. No.		11 referred to a moment ago.
	12 (Witness reviews document.)		12 A. From Ethypharm?
	13 A. (In English) I think it's a technical --		13 Q. That's my question to you.
	14 I'm not sure. It is maybe a technical way of --		14 A. I must be tired. I do not understand.
12:05:59	15 of -- to obtain and maybe that is -- there is a lot	12:09:03	15 Q. A moment ago you mentioned manufacturing
	16 of technical ways, and this one I don't know.		16 sites possibly in Zaragoza or in France.
	17 Q. Okay. Let's -- I'd like to direct your		17 Do you remember that testimony?
	18 attention to paragraph 2.		18 A. Well, you asked me about my
	19 And I'm going to read an English		19 interpretation of the sentence of this document,
12:06:24	20 translation I've been given for the first sentence.	12:09:27	20 the sentence I don't know.
	21 As for the changes of formula, potential		21 Q. Okay.
	22 customers that we have on the Spanish market are		22 A. And I responded that I imagine that

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<p>12:09:37 1 Mr. Adolfo de Basilio understood or had a -- had a 2 hidden understandment (sic) with regards to the 3 change -- to changing in formula, which I imagine 4 being the changes of Omeprazole that he made 12:10:08 5 reference to manufacturing in Spain or 6 manufacturing in France, the way it was imagined 7 for the change of the formulation. 8 And now if you ask me what products are 9 manufactured on different sites of production in 12:10:40 10 France, that list is to be a very long list. 11 Q. I understand. 12 MR. MINGOLLA: Let's go off the record 13 for a moment. 14 THE VIDEOGRAPHER: The time is 12:10:22 12:10:50 15 Off the record. 16 (Whereupon, at 12:10:22 p.m., a luncheon 17 recess was taken, and the proceedings resumed at 18 13:09:41 p.m., this same day.) 19 20 21 22</p>	<p>13:10:35 1 Q. Okay. The sentence -- I'd like you to 2 read to yourself the sentence that begins D'autre 3 part. Do you see that sentence? 4 And for the record, in English it says, 13:10:51 5 As I explained earlier on the phone, there were 6 several other things happening with Cantabria 7 concerning Omeprazole. 8 And then if you turn to the second 9 bullet point of the next page. 13:11:11 10 A. (In French) Oui. 11 Q. If you could read that bullet point to 12 yourself, the bullet point that begins with lis 13 vont également. 14 A. (In French) Oui. 13:11:24 15 Q. And for the record, I'll -- I'll read 16 that in English, at least according to the 17 translation I have. 18 And it says, They are going to present a 19 Bis, B-I-S. Here we call it a clone of Belmac's 13:11:34 20 AMM in order to make it a pure generic, but it 21 would be a different line from what they have 22 already.</p>
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<p>12:11:19 1 AFTERNOON PROCEEDINGS 2 [1:09 p.m.] 3 (Germain Deposition Exhibit No. 8 was 4 marked for Identification.) 13:10:06 5 THE VIDEOGRAPHER: On the record. 6 The time is 13:09:41. 7 Whereupon, 8 PIERRE GERMAIN 9 Resumed as a witness and, having previously been 10 duly sworn, was examined and testified as follows: 11 EXAMINATION BY COUNSEL FOR THE DEFENDANT 12 (Continued) 13 BY MR. MINGOLLA: 14 Q. Mr. Germain, welcome back. 13:10:13 15 Do you have Exhibit 7 in front of you? 16 A. Yes. 17 Q. Do you see the reference in item No. 3 18 to Cantabria, C-A-N-T-A-B-R-I-A? 19 A. (In French) Yes. 13:10:31 20 Q. Do you know what Cantabria is? 21 A. (In English) No. 22 (Through the Interpreter) No.</p>	<p>13:11:43 1 Do you see that sentence? 2 A. Yes. 3 Q. Do you have an understanding as to what 4 that bullet point is a reference to? 13:11:53 5 MR. FINE: I'm going to object on the 6 grounds that this is Phase II. 7 THE WITNESS: (In English) No. If your 8 question -- 9 (Through the Interpreter) If your 13:12:08 10 question -- if you mean by -- by asking your 11 question what Bis is meant -- 12 BY MR. MINGOLLA: 13 Q. Do you know what -- what a Bis is? 14 A. (In English) A Bis, yes, oui. 13:12:19 15 Q. And what is it? 16 A. It's a copy in order to manufacture -- 17 manufacturer a generic. 18 Q. Okay. 19 A. You submit the Bis to the authorities in 13:12:37 20 order to obtain the AMM. 21 Q. The next sentence of that bullet point 22 says, The product would be manufactured on</p>

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13:12:45	1 Ethypharm premises in Zaragoza. 2 Do you see that sentence? 3 A. Yes. 4 Q. As of May 18th, 2000, did Ethypharm have 13:12:56 5 any premises in Zaragoza? 6 A. Not as far as I know. 7 Q. Do you have an understanding as to what 8 the reference to Ethypharm premises in Zaragoza 9 means? 13:13:14 10 A. I imagine that these are Belmac 11 facilities but I don't know more. 12 Q. Okay. I'd like to show a document 13 that's been marked as Exhibit 8. 14 Would you just review that while I 13:13:50 15 identify it for the record. 16 Exhibit 8 is a two-page document -- is a 17 one-page document bearing production NO. EP 006124. 18 (Witness reviews document.) 19 A. (In French) Oui. 13:14:41 20 Q. Do you recognize this document? 21 A. I don't recall. 22 Q. Do you see the date listed on the	13:16:52	1 order to obtain agreement for the raw material DMF 2 in the framework of the AMM file. And that's it. 3 Q. You just mentioned "DMF." 4 Do you know what -- could you explain to 13:17:10 5 me again what DMF is or stands for? 6 A. It's a technical terminology which is 7 used for a technical sheet or a technical chart 8 to -- to define a raw material, the quality 9 thereof. It's a -- it's a quality warranty, and 13:17:49 10 it's legal. 11 Q. Who prepares the DMF that's referred to 12 in the -- in the third paragraph of Exhibit 8? 13 A. That is a complex question, because in 14 the DMF you have at the same time the exploiting 13:18:35 15 enterprise, and the company that is at its origin 16 and, in this case, this would be Dr. Reddy. 17 Q. And who is the exploiting enterprise 18 that you just referred to in your prior answer? 19 A. Ethypharm. 13:19:10 20 Q. Okay. 21 A. The exploiting enterprise is the 22 enterprise in which name is the AMM.
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13:14:49	1 document as May 18th, 2000? 2 A. Yes. 3 Q. And who is the letter from? 4 A. (In English) Adolfo de Basilio. 13:15:03 5 Q. And -- and who is it directed to? 6 A. (In English) Pierre Germain, myself -- 7 (In French) Moi-même. 8 Q. Okay. The first paragraph of Exhibit 8 9 references Omeprazole originating in India from 13:15:19 10 Dr. Reddy. 11 Do you see that? 12 A. Yes. 13 Q. Do you have an understanding as to what 14 that is a reference to? 13:15:38 15 A. In this document it is talked about a 16 transfer of raw material for Omeprazole with raw 17 material coming from India, with raw material 18 coming from a company by the name of Dr. Reddy that 19 is a Indian pharmaceutical laboratory. 13:16:24 20 Reference is made that raw material has 21 been received and that several number of tests in 22 order to obtain the transfer of the AMM, and in	13:19:28	1 Q. And -- 2 A. So there are plenty of possibilities. 3 Later on the AMM can be in the name of -- of the 4 company that manufacturers, that exploits, or 13:19:53 5 sometimes they have subcontracts. It depends. 6 Q. As of May 2000 did Ethypharm Spain have 7 an AMM with respect to Omeprazole? 8 A. I imagine, yes. 9 Q. Do you know for a fact it did or are 13:20:28 10 you -- 11 A. No, I don't know. 12 Q. Do you know as of May 2000 whether 13 Laboratorios Belmac -- 14 A. Just in a nutshell, when I worked for 13:20:35 15 Ethypharm, the group, that means everything of 16 Ethypharm, had about, from memory, once I was in 17 200 AMMs. 18 So I cannot tell you how many AMMs in -- 19 in Germany and England and Pakistan. And some of 13:21:09 20 these AMMs were local or global. I am not able to 21 give you an answer. 22 Q. With respect to a local AMM, such as you

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13:21:22 1 just referenced --  
2 A. (In English) Mm-hmm.  
3 Q. -- and let's take, for example, Japan,  
4 was the AMM applied for by the Ethypharm subsidiary  
13:21:38 5 in Japan?  
6 MR. FINE: Objection. Speculation. No  
7 foundation.  
8 THE WITNESS: It made -- it may be the  
9 affiliate or it may be the group that applies,  
13:22:01 10 because the AMM defines the responsibility. And so  
11 you have pharmaceutical companies that do not have  
12 a local affiliation but that nevertheless exploit  
13 products. It depends.  
14 BY MR. MINGOLLA:  
13:22:38 15 Q. As of May 2000 do you know whether  
16 Laboratorios Belmac had an AMM for Omeprazole?  
17 MR. FINE: Objection. Asked and  
18 answered.  
19 THE WITNESS: In its name?  
13:22:57 20 BY MR. MINGOLLA:  
21 Q. Yes.  
22 A. I don't know.

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13:24:43 1 A. Yes.  
2 Q. Do you have an understanding as to what  
3 that is a reference to?  
4 A. Reference is made to the change in  
13:25:01 5 formulation.  
6 Q. A change in formulation of what?  
7 MR. FINE: Objection. Phase II.  
8 THE WITNESS: In the aqueous, in the  
9 liquid formula formulation.  
13:25:22 10 BY MR. MINGOLLA:  
11 Q. Now the sentence says that Belmac and  
12 Cinfa have agreed to ask for a change.  
13 Do you see that?  
14 A. Yes.  
13:25:26 15 Q. Do you have an understanding as to why  
16 Belmac must agree to make such a change?  
17 A. Because if you change either the raw  
18 material, or the formulation, or the manufacturing  
19 site you need to have a new put-on-the-market  
13:26:02 20 authorization AMM.  
21 And for this you need two things.  
22 First of all, the agreement of the

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13:22:59 1 Q. Do you know whether, as of May 2000,  
2 Bentley Pharmaceuticals --  
3 A. No, I imagine that they have an AMM in  
4 that that they had an AMM in their name because  
13:23:25 5 they have a molecule of -- what's the company? --  
6 of Omeprazole which was also present in four or  
7 five other labs in Spain.  
8 Q. As of May of 2000 do you know whether  
9 Bentley Pharmaceuticals had an AMM for Omeprazole  
13:23:47 10 in Spain?  
11 A. I don't know, but I imagine, no. I  
12 don't think that the legal structure Bentley's  
13 (sic) is an exploiting enterprise in Spain.  
14 Q. The fourth paragraph of Exhibit 8 --  
13:24:26 15 A. (In English) Mm-hmm.  
16 Q. -- says, In Spain, we have two clients:  
17 Belmac and Cinfa, C-I-N-F-A.  
18 Do you see that sentence?  
19 A. Yes.  
13:24:36 20 Q. And then the next sentence says, They  
21 have agreed to ask for a change in Spain.  
22 Do you see that?

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13:26:14 1 exploiting enterprise.

2 Second, the agreement of the

3 authorities.

4 Therefore, for that, the agreement of

13:26:31 5 all the clients was needed, and among them, Belmac

6 and Cinfa.

7 Q. Do you know --

8 A. That's legal.

9 Q. I understand.

13:26:48 10 Do you know who at Ethypharm was

11 responsible, if anyone, for getting the agreement

12 of Belmac to make the change in Spain?

13 A. If you were responsible at my time was

14 H       Carpentier, Yves Liorzou --

13:27:30 15 Q. Mm-hmm.

16 A. -- of course, Philippe Boudal, and the

17 person in charge of the zone or the affiliation.

18 In the case of Spain, this was Adolfo de Basilio.

19 Q. And with respect to the specific

13:27:54 20 agreement to make the change in Spain referenced in

21 the fourth paragraph of Exhibit 8, do you know

22 whether Madam Carpentier was involved in seeking